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ECONOMY

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Where to invest



BR Business Review

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"I commend your magazine as a valuable source of information for the business community, inside and outside of our country. The Romanian media environment benefits from an English-language publication like Business Review, both in print and online. I wish you many successful years on the market. Long may you continue being committed to providing objective, in-depth and real-time information to your audiences!"

Monica Ene-Pietroșanu, Country Manager,
Intel Romania Software Development Center



"I welcome the activity of Business Review over all these years and I congratulate the team for the substantial editorial content, presented with objectivity. I believe the Romanian business climate needs an English-language publication that should present to foreign investors active in Romania, as well as to their employees, the opportunities offered by our country. In its 15 years of existence on the market, Business Review has managed to adjust to the changes and integrate into the new media paradigm, bringing its readership quality content, interactivity and flexibility, both through the online and print editions."

Cătălin Marinescu, President, ANCOM

Operation: Investment

A Business Review contributor commented in a recent article that people living in Romania should have a common goal: “It is essential for our future to build and win national prestige, to increase the assurance that it is okay to invest both emotionally and financially in this country.”

According to data released by the National Bank of Romania (BNR), in 2013 Romania posted a 22.3 percent increase in foreign direct investment, taking it to a four-year high. In the first 11 months of 2013, FDI totaled almost EUR 2.4 billion, good news given that the economic climate is far from an easygoing one.

This guide features not only the most attractive industries, but also the opinions of the major chambers of commerce and embassies active in Romania, who outline the advantages and disadvantages of investing here as well as the areas of interest to their investors.

“Romania is a resource-rich country. We have a lot of good agricultural land, we have excellent potential for tourism, and we have oil, natural gas and minerals,” says Gabriel Biris, vice-president of the AOAR. James Hyslop, the EBRD’s director for Romania, adds, “Romania is first and foremost a country with one of the highest potentials of any European nation.”

There are certain industries that many specialists agree are attractive to both local and foreign investors. Agriculture, energy and tourism are mentioned in almost all the studies conducted on Romania and also recommended by most of the embassies and chambers of commerce to their investors.

I’m sure you will find more arguments for investing in Romania, either emotionally or financially, to quote the Business Review contributor, while reading the opinions and interviews within the first edition of this guide – a must-have tool for your future investments!

Raluca Comanescu

Reaping the rewards of Romanian resources

Gabriel Biris

Vice-President, AOAR (the Romanian Association of Businesspeople)
Founding Partner Biris Goran

Romania is a resource-rich country. We have a lot of good agricultural land, we have excellent potential for tourism, and we have oil, natural gas and minerals. Moreover, Romania is strategically positioned for global trade, we have one of the biggest harbors in Europe and we have the Danube to transport large quantities of merchandise, cheaply and quickly, to Central Europe. We are also strategically positioned to be an important player in regional politics.

Yet, we have one of the lowest levels of Foreign Direct Investment (FDI) in Europe, we lack infrastructure, the trade level is rather low and we are not at all an important regional player, politically speaking. Qualified workers are migrating en masse due to the lack of opportunities in the country.

This happens mainly because we lack coherent political leadership. We need to design good strategies and to focus on their implementation. Right now a great deal of energy is consumed by internal arguments and too little is spent on constructive dialogue. The good news is that there are win-win

solutions to develop the entrepreneurial mood in Romania and to keep the budget balanced while ensuring the funds for investing in infrastructure and education. Investing in education should have always been a top priority.

Romania needs serious investment in infrastructure and the recent disputes regarding the highways do not help. The Pitesti-Sibiu highway and another highway that links Moldavia to Western Europe should be priorities.

As regards the fiscal policies, we believe that the following actions must be taken:

Ensure predictability

The speed of amending the current taxes plus the introduction of new taxes really scares investors. For businesspeople it is impossible to produce a coherent business plan when the fiscal code and fiscal procedural code are changed more than ten times per year, every year, and when new and significant taxes are introduced, such as the controversial tax on constructions;



Reduce labor taxes

This can be easily accomplished by reforming the current social security system, namely by eliminating exceptions, capping the base of calculation for all social contributions at a decent level (maximum three months' average salary) and allowing the personal deduction not only when calculating the base for the

income tax, but also for social contributions. Enlarging the base and giving the system a fair basis will also help by reducing the current deficit while improving the business climate;

Reduce VAT

The current VAT rate is 24 percent but we actually collect only 13 percent. There is a lot of

Opinion

room for improved tax collection and there are efficient measures to fight tax evasion that can easily be introduced.

Such a high VAT rate is severely affecting internal consumption, which should be the main engine for growth. On the other hand, tax evasion is really harming the honest businesses which simply cannot compete with the fraudsters;

Improve administration

ANAF should be much more active in preventing fraud and guiding taxpayers to properly observe the tax legislation. In addition, the Fiscal Procedural Code should eliminate any way for the tax authorities to abuse the taxpayers. Unfortunately, there are too many provisions that allow them to do that. It is worth mentioning the recent almost generalized penal complaints made by tax inspectors which suspend the judgment of appeals against decisions by the tax inspectors thereby preventing the taxpayer from obtaining a court ruling based on merit.

We have recently presented a study, which is in fact an inventory of all fiscal policy measures enacted by the government since 2009, the beginning of the financial crisis. More than 150 such measures were identified over the last five years (2009-2013). Despite this huge number of changes to the legislation, major Romanian tax problems remained unsolved. I refer particularly to VAT evasion, excises, black market labor and reduced voluntary compliance.

Property taxes have not been reformed and the measures to support the auto market and to renew the fleet contributed to the collapse of the national market instead of helping it. Domestic consumption, an element that should be the main growth engine of the economy, has been continuously declining for the last five years.

It is not only the number of changes that bother entrepreneurs, but also the quality of such measures. Some were so wrong that they needed corrections or even to be abolished. Many were intended to increase taxes or introduce new ones - but tax revenues have not increased. This shows how inefficient most of them have been. "Right" or "left", all governments had the same wrong approach: new taxes.

However, we should all understand that there is no such thing as a perfect tax system and even if we could invent one, it would not be sufficient to generate growth. Of course, it could help a great deal. But we also need an efficient judicial system; we also need much more efficient legislation to protect the rights of creditors rather than debtors. Excessively protecting debtors is stimulating fiscal indiscipline, causing chain bankruptcies and destroying viable jobs.

From the inventory of all fiscal policy measures:

Top 5 positive measures:

1. Holding companies (OUG 102/15.11.2013) - This measure is meant to attract foreign investors and to develop their long-term operations in Romania.

The recent amendments to the taxation of dividends highlight that dividends distributed by a Romanian company to a non-resident company established in a state that has concluded a Double Taxation Treaty (DTT) with Romania, are tax-exempt if this non-resident company (whether an EU or non-EU member) holds at least 10 percent of the Romanian company's share capital for a period of more than one year, as opposed to the two year-period which was previously applicable.

2. Revaluation reserves (OUG 34/11.04.2009) - The revaluation reserves are

taxed when the building or the land they are related to, and for which they were recorded, are sold by the company.

3. Mandatory social security contributions (OUG 117/30.12.2013 + OUG 125/30.12.2011)

- the regulation of mandatory social contributions due from persons obtaining revenue from dependent activities and from other activities was introduced in the Tax Code, which led to a unitary approach concerning their tax treatment, but also to a decrease in the number of tax returns which the employers were due to submit before this decision was made.

4. The regulation of inactive taxpayers (OUG 46/25.05.2009)

- transactions involving inactive taxpayers are no longer taken into consideration from the tax point of view. In this regard, the National Agency for Fiscal Administration has the obligation to keep the Register of inactive taxpayers updated on its website.

5. Reverse charge for cereals (OUG 49/31.05.2011) - the reverse charge mechanism for transactions with cereals was introduced as a measure against tax evasion. However, as this mechanism was introduced only in this sector, it led to some problems for the producers of cereals, as they had to request their input VAT be reimbursed. The VAT reimbursement is, however, very often delayed by the Romanian Tax Authorities.

Top 5 negative measures:

1. VAT rate increase (OUG 58/28.06.2010) - from 1 July 2010, the VAT rate was increased from 19 percent to 24 percent, which led to a decrease in consumption and also to an increase of tax evasion in Romania.

2. Tax on constructions (OUG 102/19.12.2013) - from 1 January 2014, a new tax was introduced in the Romanian Tax Code - a tax on constructions, which shall be

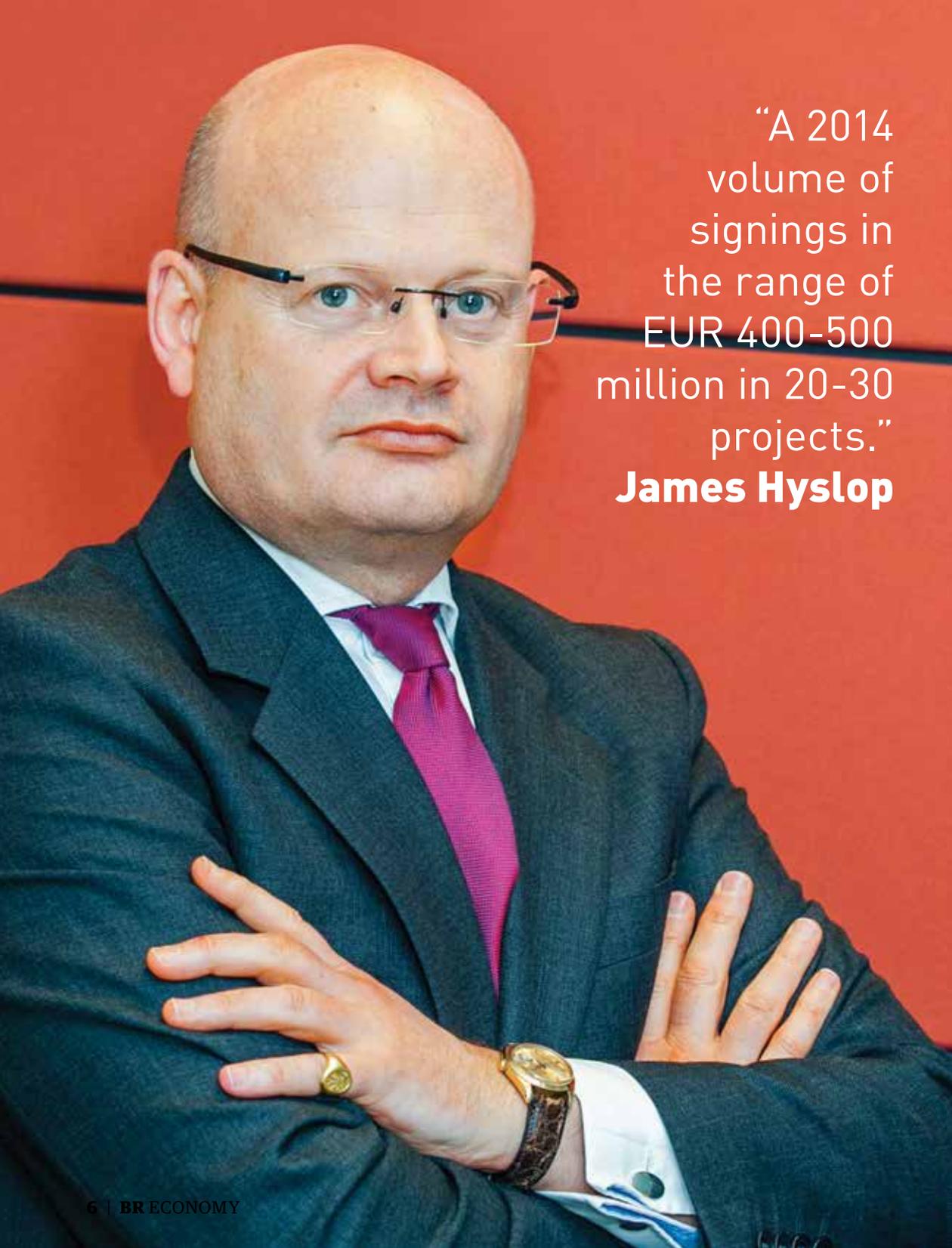
paid for group I constructions, as evidenced in the List of Fixed Assets grouped by classes and normal useful life, except for buildings on which a building tax is paid in accordance with Title IX of the Tax Code.

This tax shall be calculated by applying the 1.5 percent rate to the carrying value of the respective construction, as recorded in the accounting books on 31 December of the previous year; certain exceptions are mentioned in this respect. It is also worth mentioning that if the value of these constructions increases or decreases during the tax year, this will not have any impact on the tax due for the current year, but will be considered when computing the construction tax due for the following year.

3. Late payments penalties (OUG 39/28.04.2010) - the late payment penalties of 0.1 percent / day of delay were replaced from 1 July 2010 with late payment interests of 0.05 percent / day of delay + late payment penalties of 5-10 percent.

4. Changing the foreign exchange rate for calculating the excises (OUG 102/19.12.2013) - the exchange rate used to calculate the excises is the one published by the Central European Bank, unless the rate from the previous year is higher, in which case this rate is used, adjusted by the consumer price index in Romania for the respective year.

5. Minimum corporate income tax (OUG 34/11.04.2009) - this tax was introduced in May 2009 and its application made taxpayers that do not obtain taxable profits liable to pay this minimum corporate income tax, based on the turnover obtained in the previous year. It was eliminated in 2010, which led to problems concerning the manner in which corporate income tax was declared in 2010, as this created two fiscal periods, with two annual corporate income tax returns and consequently with two tax on profit calculations. 



“A 2014
volume of
signings in
the range of
EUR 400-500
million in 20-30
projects.”

James Hyslop

Developing a European future

The EBRD develops projects that will assist Romania in maintaining stability in the financial sector, to support the further growth of local enterprises and small and medium-sized enterprises (SMEs). The bank supports Romania's transition to a low-carbon economy, helps enhance its energy efficiency and security and promotes commercialization, competition and private sector involvement in infrastructure. Recently, the EBRD in its goal of continuing to facilitate Romania's transition to a low-carbon economy through the further development of renewable energy resources, said it would provide a senior loan of EUR 49 million to fund the construction, commissioning and operation of the 108MW Crucea North Wind Farm in the Black Sea region of Dobrogea. **James Hyslop, the EBRD's director for Romania**, talks about the bank's plans for the Romanian market.

Where would you place and how would you describe Romania in the European context?

Romania is first and foremost a country with one of the highest potentials of any European country. The key attractions are: first, its strategic location, along with its relatively large population (close to 20 million people); second, its sound macroeconomic position, with low inflation, a government deficit below 3 percent of GDP and growing economy (3.5 percent in 2013); and third, the convergence potential - GDP per capita is just 50 percent of the EU average (adjusted for purchasing power standards).

On a 1 to 5 scale, how do you rank Romania as a country worth or not worth investing in? What are its advantages and disadvantages?

I would prefer not to put arbitrary numbers on Romania's investment potential, but would simply point to the numerous advantages. In addition to those mentioned above, Romania has significant cost advantages, in terms of labor costs, over most EU countries and a strong educated pool of potential workers. However, there are areas that need attention: the business environment is sometimes cumbersome and difficult to navigate, and the quality of infrastructure is still well below

Interview

the standards of the most advanced European countries. This is why it is important to accelerate the usage of EU funds, which are designed specifically to help countries converge in their living standards towards the EU average.

Which European country should Romania take as an example for development, as a role model?

Each country has different circumstances and there is no magic blueprint for economic success.

However, the countries that are most successful in Europe are typically those with a stable macro economy, well-functioning institutions and a strong sense of social cohesion, which make them very attractive for investors.

Which Romanian industries do you believe will perform well in the next five years?

Romania has significant potential in a range of areas - agribusiness, energy, high-tech, knowledge-intensive industries and tourism. All of these have potential for strong growth in the coming years.

How much financing has the EBRD scheduled for Romania this year?

Since the start of its operations in Romania, the EBRD has invested approximately EUR 6.5 billion across over 350 projects in Romania and has further mobilized over EUR 13.5 billion for these ventures from other sources of financing.

The EBRD business volume in Romania in 2013 continued the recent years' sequence of high volumes with a record number of new signings (32) totaling EUR 508 million. It is rather early in the year to make a prediction but we may forecast, similar to the last few years, a 2014 volume of signings in the range of EUR 400-500 million in 20-30 projects.

Which industries will need financial support from the EBRD?

The EBRD remains committed to supporting the Financial Institutions sector and ensuring its stability in a challenging period. It will work with banks and non-banking financial institutions to provide SME finance, including for energy efficiency and small-scale renewable energy. In addition, the bank will support financial institutions in their efforts to access the local capital market in order to diversify their funding sources and get access to medium- and long-term funding. For this purpose, the EBRD launched a dedicated EUR 150 million bond market framework to support investments in bonds issued by local financial institutions.

As part of this, the bank participated in the local currency bond issues of UniCredit Tiriac Bank and Raiffeisen Bank in 2013 and envisages further investing in such instruments raised by Romanian banks.

How are you supporting Romania to improve its EU funds absorption?

In 2013 the bank continued the series of projects under its Romania Regional Co-financing Facility for water and waste water treatment projects in the municipal sector with six projects signed in 2013 in Prahova, Maramures, Bacau, Dolj, Bihor and Botosani counties for a total of EUR 61 million, leveraging an additional EUR 600 million of EU cohesion funds and bringing the total amount of EU funds mobilized under this framework to over EUR 1.8 billion. Moreover, in the context of the Memorandum of Understanding between the EBRD and Romania on EU Funds, the bank will remain actively engaged, and will directly assist in capacity building and in improving the EU funds absorption level in parallel with promoting private sector participation and sustainable financing schemes.

What will the main areas of economic growth be this year (and your estimation regarding the economic growth)?

At present, we expect GDP growth in 2014 to be 2.4 percent. However, we were surprised by the strength of the recovery in 2013 - GDP growth of 3.5 percent exceeded our (and most others') expectations, and there is potential for further strong growth this year provided political and macroeconomic stability is preserved and the Eurozone continues to show signs of recovery.

What are your expectations regarding this year's privatization of state-owned companies on the Bucharest Stock Exchange?

Among the bank's projects concluded in 2013 was the first comprehensive IPO participation including a corporate governance action plan. The bank invested EUR 50 million, in RON equivalent, for a 1.9 percent shareholding in Romgaz, the largest gas producer in Romania, as part of the IPO through which the state reduced its holding from 85 percent to 70 percent.

The purpose of the project is to assist Romgaz in its efforts to improve its corporate governance, internal control systems and environmental management practices.

With Romgaz shares dual listed on the Bucharest Stock Exchange and on the London Stock Exchange through GDRs, the project also contributes to the development of the local capital market in Romania.

The approach to the Romgaz IPO involving a Corporate Governance Action Plan is a model worth replicating.

Over the coming years, the bank will continue to be an active contributor to the development of a better investment climate and the Romanian economy, including in cooperation with the IMF, EC and WB, under the framework of their economic program, especially

in areas like privatizations, listings and the restructuring of state-owned corporations.

Is there a specific strategy for supporting SMEs/local companies? What profile of this type of companies would get your attention?

The EBRD is supporting SMEs indirectly, via dedicated credit lines channeled through financial intermediaries (as presented in Q6 above). It also targets Romanian SMEs directly through its Local Enterprise Facility under which it provides finance of up to EUR 10 million via a wide range of flexible financial products including equity and debt financing. In the case of financing provided via financial institutions, SMEs are generally defined according to the EU definition and the scope of such finance covers both investment and working capital purposes, for a wide range of industries/sectors.

Agriculture, IT, energy and tourism are some of the most frequently mentioned areas of interest to foreign investors and others. What should Romania do for each of them specifically and all of them generally in order to be more flexible, transparent and attractive to investors?

Indeed, these are the sectors where Romania has strong potential. In general, it will be important to attract greater shares of foreign investment to these sectors, but this will happen only if there is a concerted effort to tackle business climate problems and remove unnecessary impediments to investment.

It is also important to think regionally about these sectors. For example, Romania's participation in the South East Europe Energy Community opens up new investment possibilities that enable cross-border trading of electricity and gas. Developing tourism requires a strategic approach to regional transport links. [BR](#)

Industries

11	Agriculture
17	Energy
21	Infrastructure
26	Online
29	Real Estate
33	Retail
36	Tourism

Note: The listing of all industries was done in alphabetical order.

Local agriculture poised to generate growth

The agriculture sector is without doubt an important piece in the economy's supply chain. In spite of its great production potential, the opportunities to export Romanian agricultural products, with their subsequent positive impact on the balance of trade, have never fully been realized. However, there has been some progress in recent years.

Teodora Alecu, Ph.D., Director, Tax, Transfer Pricing Services, KPMG in Romania

Răzvan Nan, Senior Manager, Banking Advisory, KPMG in Romania

In 2010, according to the Romanian Ministry of Agriculture and Rural Development (MARD), Romania halved its food trade deficit compared to 2009, to approximately EUR 730 million. Exports increased by 40 percent to EUR 3 billion and imports of agricultural products reached EUR 3.7 billion, increasing slightly from 2009. In 2010, the highest earnings from sales both within the EU and outside came from corn, wheat, cigars and cigarettes. Exports of rape seed, sunflower seeds and live animals were also significant. Last year, Romania also exported poultry, sugar, bakery and confectionery products, honey, wine, mineral water and chocolate. Turning to the imports of agricultural products, fresh or chilled pork remained in first place, followed by sugar and food preparations¹.

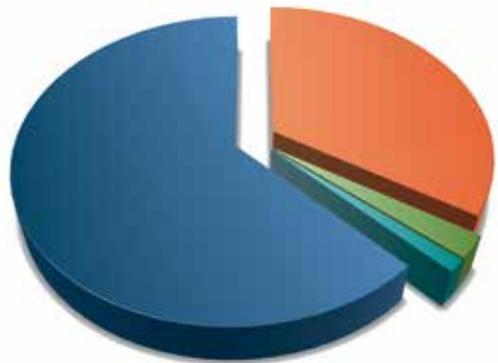
In 2012, agriculture represented 5.3 percent of Romania's GDP², compared to the EU average of 1.7 percent³. Romania has a total agricultural area used in agricultural holdings of approximately 13.3 million ha, out of which

only 8.3 million ha is used as arable land⁴. Since 1989, very few industries have been privatized as extensively as agriculture. So far, approximately 85 percent of agricultural land has been privatized, and the main form of privatization has been restitution.

Broadly, the structure of agriculture land is as follows:

Figure 1 Agricultural land by use

■ Arable Land 62.5%	■ Permanent crops 2.4%
■ Pastures and hayfields 33.8%	■ Family gardens 1.3%



Source: Romania Agriculture Census 2010

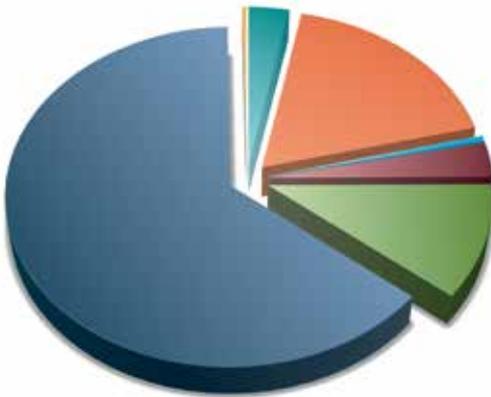
Agriculture

As can be seen in the above table, arable land represents the highest proportion, at 62.5 percent of the total, while family gardens make up the lowest, at 1.3 percent. Other types of agricultural land include pastures and hay-fields, representing 33.8 percent of the total, and permanent crops, at 2.4 percent⁵.

As can be seen from the table below, the main crops occupy approximately 80 percent of the arable land, consisting of grain cereals (64 percent) and oleaginous plants (18 percent). The grains are used mostly in producing bakery products, especially various types of bread. Other types of crops that are grown are green fodder (10.9 percent), potatoes and vegetables (6.4 percent), and grain vegetables (0.5 percent). Remaining crops represent just under 0.3 percent of the total use of arable land⁶.

Figure 2 Types of crops

- Potatoes **3,1%**
- Oleaginous plants **18,0%**
- Grain vegetables **0,5%**
- Vegetables **3,3%**
- Green fodder **10,9%**
- Grain cereals **63,9%**
- Other **0,3%**



Source: Romania Agriculture Census 2010

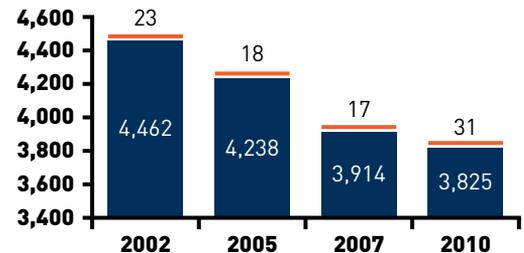
The Romanian agricultural sector has a long way to go to reach its full potential. It is facing

challenges driven by climate, regulatory and social change and smallholders' difficult access to bank financing. Weather conditions have been responsible for fluctuating yields and shortfalls in supply, which have in turn influenced the price of crops. Government actions on trade or production subsidies also affect supply and demand. Where social forces are concerned, consumer reaction to food scares can be sudden and severe and have a large impact on demand. Small farmers' own funding potential is low due to lack of financial knowledge and trust in investment programs and cooperatives, which could provide the necessary funds for them to acquire land, equipment, irrigation systems, livestock technologies, and breeding programs as well as to build storage warehouses. One certainty in the agricultural sector is that taxation is increasing. There has been an increase in the overall burden because of a greater emphasis on compliance. (A few years ago, we rarely spoke about taxation of income earned by individuals from agriculture activities.) However, there has also been an enlargement of the base to which certain taxes are applied.

As can be noted from the graph below, there is still room for tax registration when it comes to farms.

Figure 3 Agricultural farms

- Agricultural non-fiscalized farms
- Agricultural fiscalized farms



Source: Romania Agriculture Census 2010



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Agriculture

The tax authorities are increasingly turning their attention to individuals in the sector, looking more closely at the way those earning income from agriculture declare their taxable base and pay the related tax. Where no fiscal administration office exists in the locality where the taxpayer lives, a protocol must be concluded with the local authorities, who will ensure collection of the relevant income tax.

It can therefore be expected that knowledge and discipline in the agriculture business in relation to the drafting of contracts, making payments on time and keeping accounting records will increase. Compliance can be expected to be enhanced, with a more corporate culture developing in the sector. In line with this trend, we can also expect to see less fragmentation of agricultural land, and consolidation around major players. Small farms that manage to form associations could perform well, but those that try to continue on their own may face more difficulties in surviving.

The breakdown of agricultural producers by size is presented in the following graph:

a) Subsistence farm = A farm/household that produces for its own consumption and not to sell products on the market.

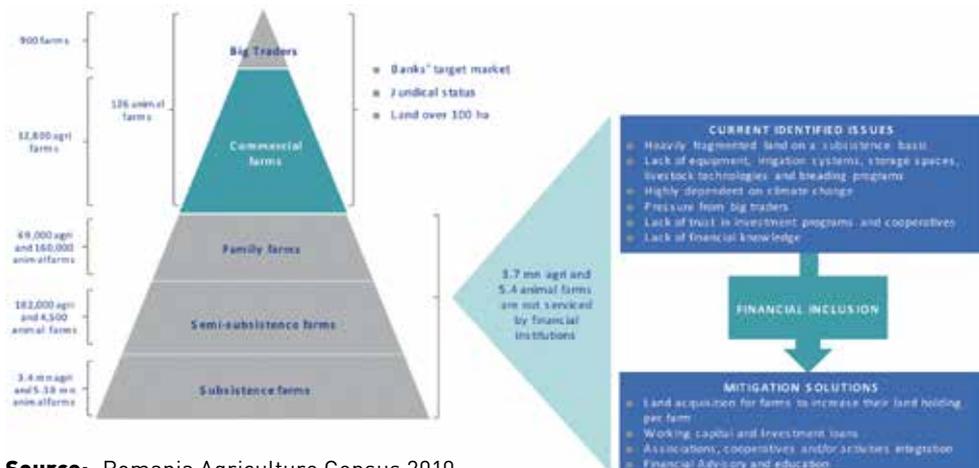
b) Semi-subsistence farm = A farm/household that produces largely for its own consumption, but also to sell some products on the market. This type of farm is characterized by very diversified production determined by the needs of the household, and by a low level of technical equipment.

c) Family farm = A farm/household that produces for its own consumption and the surplus is sold on the market. Activities on the farm are carried out mainly by family members.

The solution to the fragmentation of plots, which is a key contributor to the lack of access to funds for investments, is the association of farmers in cooperatives, which help achieve economies of scale, and can more easily secure loans for equipment, irrigation systems and storage.

Mechanization is comparatively poor in Romania, with one tractor available for every 54 ha, while the EU average is one tractor for every 13 ha. Approximately 170,000 tractors

Figure 4 Agricultural producers



Source: Romania Agriculture Census 2010

INCREASING INVESTMENTS IN AGRICULTURAL LAND IN ROMANIA

Rödl & Partner

In view of the possibility of land acquisitions in Romania by EU citizens or EU legal entities (including EEA states) starting from 1 January 2014, as well as considering the fact that agriculture was one of the main engines of Romania's economic growth in 2013, we hereby briefly highlight specific matters of land acquisition by foreign investors in Romania.

Romania presents well-known advantages for investors in agribusiness, such as:

- large surfaces of arable land available for investments, i.e. the fifth largest arable surface in EU;
- low land prices compared to the EU average, but prices will continue to rise in the coming years;
- good climate and soil quality;
- low labor costs, i.e. average gross nominal wages are still the second lowest in the EU;
- strengthening the rule of law further to EU accession;
- non-reimbursable EU funds and increasing farming subsidies available.

Moreover, favorable tax rules exist in certain respects: a flat tax of 16 percent, VAT reverse charge for cereals and technical plants to 31 December 2018; VAT of 9 percent for wheat, rye, wheat flour, bread & bakery; additional 50 percent deduction for eligible R&D expenses; favorable taxation of holding structures since 1 January 2014.

Nevertheless, for a complete overview of this sector, it should be mentioned that investors in agricultural land have to overcome certain difficulties on the Romanian market, such as:

- the implementation of cadastral plans at national level is still in progress;
- lack of cadastral measurements and Land Book registrations in several regions; frequent overlaps of arable land surfaces in practice;
- restitution procedures started in 1991 but still not finished; a new deadline of 1 January 2016 was set for solving the restitution cases;
- often defective keeping of public records of agricultural land;
- large surfaces of non-farmed land;
- legal restrictions on acquiring land in public ownership, subject to public auction;
- frequent changes of legal and tax frameworks;
- preemption rights for arable land;
- swaps of leased arable land on site without notifying the landlord or the city hall;
- the enforcing of lease agreements, which are writs of execution, could be difficult in practice.

Prior to 1 January 2014, agricultural land was acquired by foreigners through Romanian business vehicles, i.e. legal entities, such as limited liability companies. In such cases no restrictions applied to the shareholding or management of such local business entities.

Since 1 January 2014 the prohibition applicable to land acquisitions by foreigners has been removed. Currently, according to a draft law adopted by the Romanian Parliament (still to be published), any citizen or legal entity of an EU member state or an EEA state may acquire agricultural land in Romania on a reciprocal basis.

Foreign citizens, stateless persons and legal entities, all belonging to third party states (i.e. non-EU or non-EEA states), may acquire agricultural land in Romania only in the conditions stipulated under international treaties, on a reciprocal basis.

The draft law adopted provides certain measures concerning the limitations of acquisitions of agricultural land located outside the city limits by individuals aiming to consolidate farmland. The main restriction of the draft law relates to preemption rights; according to the draft law adopted by Parliament the following parties shall benefit from a preemption right of 30 days, in the following order: (i) co-owners of the land, (ii) land lessees, (iii) neighboring land owners, and (iv) the Romanian State.

We expect a constant increase in investments in agricultural land in Romania in the coming years, while the implementation of the mentioned legal changes will have to overcome certain administrative difficulties.

**Mr. Bogdan Frățilă - Attorney at law, Partner
FRĂȚILĂ, RÖDL & PARTNER SCA**

**Frățilă, Rödl & Partner has been actively supporting foreign investors in agribusiness in Romania in recent years. The law firm's portfolio includes assistance in the acquisition and farming of arable land of more than 20,000 hectares located in different regions of Romania, as well as legal and tax advice provided to producers and retail chains from the food industry.*

Rödl & Partner is an international multidisciplinary consultancy firm, offering services in legal, audit, tax and financial-accounting matters, with 90 offices in 40 countries worldwide, including 30 offices in Central and Eastern Europe.

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Agriculture

exist in Romania, of which about 80 percent are aging or obsolete (source: Eurostat). Better access to financing for the acquisition of tractors and other equipment should be a priority.

To access state and European subsidies, subsistence farms need to become or be acquired by semi-subsistence or family farms. Loans for land acquisition granted to semi-subsistence farmers to acquire subsistence farms would reduce the fragmented nature of the current land stock.

Subsidies are an interesting topic. While all farmers seek support in the form of subsidies, from a tax point of view this may be a *fata morgana*.

Normally, taxable profit is a result of earnings from carrying out an activity. Subsidies are treated as taxable revenues, similar to income from sales. The state budget receives its contribution, but it is not a sign of actual growth. What agricultural producers should look for is to use subsidies as a financing source for investment in technology and equipment, to improve efficiency.

According to the 2010 Romanian Agriculture Census, of the total arable land, 48 percent consists of 1.1 million land holdings, i.e. subsistence, semi-subsistence and family farms with less than 100 ha per farm. These 1.1 million farms receive annual state subsidies of approximately EUR 175/ha, which represents approximately 20-40 percent of the cost of soil cultivation and harvest processing. Access to working capital loans is required for investments in seeds and fertilizers for cultivation and harvesting for smallholders.

The main problem encountered by Romania's small farmers is the fragmentation and erosion of soil and obsolete technology. But, we should not forget how functional stock markets could support an increase in commercial flows.

Volatility in the price of crops is not something that can be avoided. Prices listed

on stock exchanges vary over time and it is difficult to anticipate whether they will go up or down. However, at least in the short term, better indications of market prices can be gained if the stock exchange market works well. The references currently available on the Matif Stock Exchange or the Cardiff Stock Exchange show current market prices far from Romania. Adjustments should be made, economically, for volumes of trade, additional transport and insurance costs, the quality of the crops, as well as losses in quantity and quality that could arise before arrival at the final destination.

In the end, prices lead to revenues and expenses and they all result in profit, which should be taxable. Agricultural producers should pay close attention to taxation, whether they are major players or small individual businesses.

The position can become even more complex when transactions are carried out with legal entities or individuals that are controlled either economically, or via a capital relationship. In these cases, the revenues and expenses considered for fiscal purposes should be backed by documentation of transfer prices. **BR**

Notes

1. <http://www.financiarul.ro/2011/03/14/deficitul-romaniei-cu-produse-agroalimentare-de-pestedoua-ori-mai-mic-in-2010-exporturile-in-crestere-cu-40/>
2. The National Forecast Commission
3. [_http://www.madr.ro/images/agricultura/agricultura-romaniei-aprilie-2012.pdf](http://www.madr.ro/images/agricultura/agricultura-romaniei-aprilie-2012.pdf)
4. <http://www.madr.ro/pages/raport/agricultura-romaniei-aprilie-2012.pdf>
5. <http://old.madr.ro/pages/raport/agricultura-romaniei-aprilie-2012.pdf>
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