

LAW OF UKRAINE

On Energy Efficiency Fund

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This Law determines legal, economic and organizational principles for establishment and operation of the Energy Efficiency Fund.

Article 1. Legal Status of the Energy Efficiency Fund

1. The Energy Efficiency Fund (hereinafter - the Fund) is established to support the initiatives on energy efficiency, implement tools for stimulation and support of implementation of energy efficiency of buildings and energy saving measures (hereinafter - the energy efficiency measures), particularly, in residential sector taking into consideration the national plan on energy efficiency, on reduction of carbon dioxide emissions for the purpose of implementation of the Paris Agreement, implementation of *acquis communautaire* of the European Union and the Energy Community Treaty and to ensure compliance of Ukraine with its international obligations and commitments in the energy efficiency area.

2. The Fund is a state institution, a legal entity of public law.

The Fund acquires the rights of a legal entity on the day of its state registration in accordance with the procedure set by law.

The Fund's founder is the state represented by the Cabinet of Ministers of Ukraine, the Fund is established upon the relevant resolution of the Cabinet of Ministers of Ukraine.

3. The Fund may receive financial contributions and assistance in a form of purpose grants or otherwise under relevant agreements from the governments of foreign states, their agencies and institutions. The Fund shall ensure due and transparent separate accounting of such contributions and assistance to the extent allowed by Ukrainian legislation.

4. In its activities, the Fund is regulated by the Constitution of Ukraine, this Law, laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine and resolutions of Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, as well as provisions of international agreements of Ukraine that came into effect in accordance with the established procedure.

5. The Fund is entitled in accordance with the procedure set by law to enter into agreements, acquire property and personal non-property rights, act as a claimant or defendant in the courts of Ukraine and other states.

In accordance with law, the Fund may be a member of associations of legal entities or act as a participant (founder) of other legal entities, if it is necessary or expedient to achieve the objectives of the Fund.

6. The Fund shall be a non-profit institution, have an independent balance sheet, bank accounts, stamps and letterheads with its name.

7. The Fund is established to contribute to the total energy savings in final energy consumption taking into consideration the national energy efficiency targets of Ukraine, and implementation of measures aimed to achieve them that are included in the national plans on energy efficiency and approved by the Cabinet of Ministers of Ukraine. The procedure of calculation of energy savings shall be adopted by the Cabinet of Ministers of Ukraine in line with the *acquis communautaire* of the European Union and the Energy Community Treaty.

In order to reach the national energy efficiency targets, the Cabinet of Ministers of Ukraine shall increase contributions to the Fund or/and introduce additional policy measures to ensure that the achievement of the minimum amount of energy savings among final energy customers in Ukraine.

Article 2. Charter of the Fund

1. The Fund functions in accordance with the Charter of the Energy Efficiency Fund (the Fund) approved by the Cabinet of Ministers of Ukraine, unless the international agreement of Ukraine provides for otherwise.

In particular, the Charter of the Fund shall contain information on:

- 1) the name of the Fund;
- 2) the location of the Fund;
- 3) the organizational and legal form of the Fund;
- 4) activities performed by the Fund;
- 5) the size and procedure for the formation of the Fund's charter capital;
- 6) governance structure of the Fund, managerial bodies, their competencies and decision-making procedure and the term of service;
- 7) the procedure for reorganization and liquidation of the Fund;
- 8) the procedure for introduction of changes to the Charter of the Fund;
- 9) regulations on the internal and external audit of the Fund;
- 10) other provisions defined as necessary by legislation of Ukraine.

The Charter of the Fund and amendments thereto shall be subject to the state registration in accordance with legislation on state registration of legal entities.

Article 3. Managerial bodies of the Fund

1. The Fund's managerial bodies are:

- 1) the Supervisory Board of the Energy Efficiency Fund (the Supervisory Board); and
- 2) the Board of Directors of the Energy Efficiency Fund (the Board of Directors).

Article 4. Supervisory Board

1. The Supervisory Board is the highest management body of the Fund.

The Supervisory Board protects the rights of the founder, creditors, donors and beneficial owners of the Fund, ensures fulfilment of the goals of the Fund and supervises the management of the Fund within the competency area defined by this Law and the Charter of the Fund.

2. The Supervisory Board acts in accordance with this Law, the Charter of the Fund and the Regulation on the Supervisory Board of the Fund, which shall be approved by the Cabinet of Ministers of Ukraine.

The procedure for calling, voting, passing and formalizing the decisions of the Supervisory Board shall be set by the Regulation on the Fund's Supervisory Board.

3. The Supervisory Board consists of:

- 1) two representatives of the Cabinet of Ministers of Ukraine;
- 2) two independent members of the Supervisory Board;
- 3) if so envisaged by the international agreements of Ukraine, one representative of donors;

The procedure for election (including requirements to the candidates who wish to become members of the Supervisory Board) appointment and dismissal of members of the Supervisory Board, referred to in item 1 - 2 of Part five of this Article, shall be set by the Cabinet of Ministers of Ukraine.

If an agreement which provides for a financing of the Fund by the donors is entered into between Ukraine and the donors, the procedure for election, appointment and dismissal of the member of the Supervisory Board, referred to in item 3 of Part five of this Article may be set by such an agreement. As long, as said agreement does not exist, or is not signed within one year after this Law comes into effect, or does not provide for the appointment of a member of the Supervisory Board, or after termination of such an agreement, the member of the Supervisory Board, referred to in item 3 of Part five of this Article shall be appointed and dismissed in accordance with the procedure applicable to the independent members of the Supervisory Board. Provisions of Article 5 of the Law shall apply to that member.

The Supervisory Board shall be competent, if of at least four members have been appointed.

One of the members of the Supervisory Board shall be elected as the Head of the Supervisory Board by the simple majority of votes of all appointed members of the Supervisory Board in accordance with the procedure set by the Regulation on the Supervisory Board.

If the Head of the Supervisory Board is not elected within three months since appointment of the fourth member of the Supervisory Board the powers of current members of the Supervisory Board shall be terminated. In this case, the Cabinet of Ministers of Ukraine shall immediately, no later than 10 working days of termination of powers of current members of the Supervisory Board, pass the decision on election and appointment of the members of the Supervisory Board specified in Items 1 and 2 of this Part.

If termination of powers of a member of the Supervisory Board causes incompetency of the entire composition of the Supervisory Board such member's powers shall be terminated not earlier than appointment of another person as a member of the Supervisory Board.

Decisions of the Supervisory Board shall be deemed adopted if the simple majority of members of the Supervisory Board voted affirmatively. In the event of a tied vote, the Head of the Supervisory Board shall have a decisive vote.

4. Exclusive competency area of the Supervisory Board includes the following issues:

- 1) approval of the strategy of the Fund and strategic targets for Fund activities in accordance with the key activity areas approved by the Cabinet of Ministers of Ukraine;
- 2) preparation of proposals for changes and additions to the Charter of the Fund for approval by the Cabinet of Ministers of Ukraine;
- 3) submission of proposals to the Cabinet of Ministers of Ukraine on the change of the size of the Fund's charter capital;
- 4) submission of proposals to the Cabinet of Ministers of Ukraine on termination of the Fund, election of the liquidation commission (liquidator) of the Fund and approval of the liquidation balance sheet;

- 5) approval of the annual action plan of the Fund, the budget and the cost estimate for maintenance of the Fund;
- 6) approval of the order for functioning of the internal control and audit system of the Fund and control of its efficiency;
- 7) making decisions on entry into transactions that are considered major transactions in accordance with the Charter of the Fund;
- 8) determination of the number of members of the Board of Directors, definition of the Fund's organizational structure and approval of regulations for the Fund's structural units;
- 9) appointment and dismissal of the Director, the Chief Financial Officer, the Chief Technical Officer and the Head of the Internal Audit Unit, approval of appointment and dismissal of managers of other structural units of the Fund;
- 10) approval of the terms and conditions of employment contracts with the Director, the Chief Financial Officer, the Chief Technical Officer and the Head of Internal Audit Unit, setting the amounts of their remuneration including incentive and compensation payments;
- 11) approval of the procedure of selection of managers and employees of the Fund on a competitive basis;
- 12) control of activities of the Board of Directors of the Fund, making proposals for their improvement;
- 13) approval of the regulation on the Internal Audit Unit and its work plans, control of its activities;
- 14) approval of the terms of competitive selection of an auditor for the external audit, approval of the terms of the agreement to be entered with the auditor, setting the amount of reward for its services;
- 15) reviewing of and adoption of resolutions that relate to the external audit opinion;
- 16) control of elimination of defects found by the state and regulatory authorities who supervise the activities of the Fund, the Internal Audit Unit and the auditor, based on the external audit results, within their competency areas;
- 17) setting the performance indicators for the members of the Board of Directors and the Head of Internal Audit Unit and evaluating them against such performance indicators;
- 18) adopting the annual financial statements;
- 19) review and approval of financial and other relevant reports; review and approval of reports on the results of monitoring and quality analysis of energy efficiency measures implemented with the Fund's participation;
- 20) approval, by submission of the Board of Directors, of the decision-making procedure for selection of the partner banks to participate in the implementation of energy efficiency and energy saving measures and approval of the essential terms and conditions of agreements to be entered with them;
- 21) approval, by submission of the Board of Directors, of the decision-making procedure for the selection of the persons to perform the verification of projects upon completion;
- 22) approval, by submission of the Board of Directors, of the Fund's programs, as well as products and services provided within the framework of such programs;

- 23) approval, by submission of the Board of Directors, of the procedures of monitoring, analysis of the quality and verification of energy efficiency measures implemented with the participation of the Fund;
- 24) making decisions on membership in associations of legal entities and establishment of other legal entities;
- 25) in cases prescribed by the Fund's Charter and the Regulation on the Supervisory Board, making decisions on the matters that are attributed to the competence of the Board of Directors;
- 26) approval, by submission of the Board of Directors, of the requirements to energy audit reports and evaluation criteria for such reports;
- 27) performance of other powers in accordance with law and the Charter.

The Supervisory Board of the Fund is obligated to take measures to prevent the conflict of interests in the Fund and contribute to its resolution.

The Supervisory Board may establish standing and provisional commissions and the secretariat.

Article 5. Independent members of the Supervisory Board of the Fund

1. Independent members of the Supervisory Board shall be elected on a competitive basis out of the individuals possessing full civil capability including foreigners and stateless citizens. The same person may be elected as a member of the Supervisory Board several times except the cases envisaged by law.

An independent member of the Supervisory Board shall be elected for the period set by the Fund's Charter but not less than for five years, unless otherwise envisaged by law.

2. The following persons cannot be elected as independent members of the Supervisory Board of the Fund:

- 1) a person who is or was during the last five years an official of the Fund;
- 2) a person who is or was during the last three years an employee of the Fund;
- 3) an affiliated person (as defined in the Law of Ukraine "On Joint-Stock Companies") of the Fund;
- 4) a person who receives or used to receive any income from the Fund in the last three years, except income in the form of remuneration for the performance of the functions of the member of the Supervisory Board;
- 5) a person, who is or was a public official or representative of the state during the last calendar year;
- 6) a national politically exposed person (as defined in the Law of Ukraine "On Prevention of and Counteraction to Legalization (Laundering) of Proceeds of Crime, Financing of Terrorism and Financing of Dissemination of Weapons of Mass Destruction");
- 7) a person who is the Fund's auditor or was its auditor during a certain period for the last three years that preceded his/her appointment (election) to the Supervisory Board;
- 8) a person that participates in the audit of the Fund as an auditor working as part of the audit organization, or a person who participated in such audits during last three years that preceded his/her appointment (election) to the Supervisory Board;

9) a person who worked at the position of a member of the Supervisory Board of the Fund for three terms;

10) a connected person of the persons specified in Clauses 1-9 of Part one of this Article (as defined in the Law of Ukraine "On Prevention of Corruption").

3. Independent members of the Supervisory Board perform their functions on a paid basis under a civil agreement which, in particular, determines the amounts of payments, including incentive and compensation payments. The standard form agreement shall be set by the Cabinet of Ministers of Ukraine.

4. An independent member of the Supervisory Board shall have equal rights and obligations with other members.

When exercising the powers of the member of the Supervisory Board, including voting during its meetings, the independent members of the Supervisory Board shall be guided by the laws of Ukraine, the interests of the Fund, shall vote at their discretion on all issues of the agenda of the Supervisory Board meetings and ensure implementation of their powers in the manner set by the law and the Charter of the Fund.

Article 6. Board of Directors of the Fund

1. The Fund's executive authority that exercises current management of its activities is the Board of Directors, which consists of the Director and at least two members of the Board of Directors (the Chief Financial Officer and the Chief Technical Officer) who are elected and appointed on a competitive basis in accordance with the procedure set by the Supervisory Board in accordance with Charter of the Fund.

The number of the members of the Board of Directors shall be determined by the Supervisory Board taking into account the requirements of Part one of this Article.

If so provided for by the relevant international agreement of Ukraine the Chief Financial Officer is appointed by nomination of the donors.

The Director is the Fund's manager, heads the Board of Directors and is entitled to represent the Fund without the power of attorney.

2. The competence area of the Board of Directors includes all issues connected with management of the Fund's current activities, except the issues within the competence area of the Supervisory Board.

The competence area of the Board of Directors includes the following issues:

1) preparation of the draft annual plan, budget and cost estimate for the maintenance of the Fund and the Fund's programs for approval by the Supervisory Board;

2) implementation of the approved annual plan, budget and programs of the Fund;

3) disposal of property and funds of the Fund taking into account the restrictions set by this Law, the Charter of the Fund and internal documents of the Fund;

4) setting the form and procedure for monitoring of the Fund's activities;

5) operationalizing of the Fund's organizational structure defined by the Supervisory Board of the Fund, preparation of proposals regarding the changes and improvement of the Fund's organizational structure;

6) development of the provisions on the Fund's structural units;

- 7) ensuring security of the Fund's information systems;
- 8) information of Supervisory Board of the Fund on the indicators of the Fund's activities, any revealed violations of legislation, internal regulations of the Fund and the Fund's financial condition;
- 9) preparation and provision to the Supervisory Board of periodic financial and technical reports in accordance with the procedure and in a form determined by the Supervisory Board.
- 10) review of reports on the results of monitoring, analysis of the quality and verification of energy efficiency measures implemented with the participation of the Fund, submission of the reports to the Supervisory Board and implementation of necessary corrective actions;
- 11) preparation of yearly reports for monitoring of the energy efficiency targets for the central governmental institution in charge of implementing the state policy in the areas of efficient use of the fuel and energy resources, energy saving, renewable energy sources and alternative fuels;
- 12) development of requirements to projects financed by the Fund;
- 13) development of regulations on the Fund's products and services provided as part of such programs;
- 14) development of the procedures of monitoring, analysis of the quality and verification of energy efficiency measures implemented with the participation of the Fund;
- 15) approval of projects financed by the Fund in accordance with the relevant rules approved by the Supervisory Board;
- 16) preparation of the procedure for decision-making on the selection of the persons to perform the verification of projects upon completion, involvement of legal entities and individual entrepreneurs on a contractual basis (outsourcing), selection of partner banks and approval of the material terms and conditions of the agreements to be entered into with them;
- 17) resolution of the issues of organization of business activities, financing, accounting and reporting;
- 18) within the procedures approved by the Supervisory Board, selection of partner banks to participate in the implementation of the Fund's programs with partial reimbursement of the cost of energy efficiency and energy saving measures for the beneficial owners and entry into agreements with them;
- 19) within the procedures approved by the Supervisory Board, selection of persons to perform the verification of projects upon completion and entry into agreements with them;
- 20) making decisions on involvement of legal entities and individual entrepreneurs on a contractual basis (outsourcing) and entry into agreements with them;
- 21) implementation of decisions passed by the Supervisory Board in accordance with this Law and the Charter of the Fund and resolution of other issues defined in the Charter of the Fund and connected with the management of the Fund's current activities.

The Board of Directors shall ensure organization of meetings of the Supervisory Board.

3. Decisions of the Board of Directors shall be deemed legally competent if they are approved unanimously by all members of the Board of Directors and signed by the Director.

Article 7. Personnel Policy of the Fund

1. Managers of structural units and employees of the Fund shall be selected on a competitive basis in accordance with the competitive procedure approved by the Supervisory Board.

The competition for filling the vacancies of managers and employees of the Fund's structural units shall be held in compliance with the principles of:

- 1) equal access;
- 2) impartiality;
- 3) legality;
- 4) non-discrimination;
- 5) transparency;
- 6) conscientiousness;
- 7) efficient and fair selection process;
- 8) absence of the conflict of interests;
- 9) absence of corruption.

The Director, the members of the Board of Directors and the Head of Internal Audit Unit are officials of the Fund.

The requirements as to the professional aptitude and business reputation of the officials of the Fund shall be set by the Cabinet of Ministers of Ukraine.

Managers of structural units of the Fund shall be appointed and dismissed by the Board of Directors upon the consent of the Supervisory Board, and other employees of the Fund are appointed and dismissed by the Director in accordance with the labour laws and the Charter of the Fund.

2. It shall be prohibited for the Directors, members of the Board of Directors and the Head of the Internal Audit Unit of the Fund to combine their official duties with any entrepreneurial or other paid activities (except receipt of royalty, scientific or teaching activities).

3. In case of occurrence of any conflict of interest for the Head and the members of the Supervisory Board, a Director, a member of the Board of Directors or the Head of the Internal Audit Unit of the Fund in the course of performance of their official duties, such persons are obligated to notify the Supervisory Board immediately of such cases and refuse from participation in decision-making if a potential or actual conflict of interests makes it impossible for them to perform their duties to the full extent in the interests of the Fund, its beneficial owners (as defined in the Law of Ukraine "On Prevention of Corruption"). The consequences of such refusal and the procedure for relevant decision-making by the Supervisory Board and the Board of Directors of the Fund are established by the Charter and internal regulations of the Fund.

Article 8. Control and internal audit

1. The Fund shall establish the permanent Internal Audit Unit as a component of the internal control system. The Internal Audit Unit shall be subordinated and reportable to the Supervisory Board and function on the basis of the regulation approved by the Supervisory Board.

2. The Internal Audit Unit shall perform the following functions:

- 1) verify the Fund's financial and business activities;

- 2) check the information and technical provision of management and operations;
- 3) exercise monitoring of the compliance by the managers and employees of the Fund with the requirements of legislation and internal regulations of the Fund approved by the Supervisory Board and the Board of Directors;
- 4) check the accuracy and reliability of accounting and financial reporting;
- 5) detect and check the cases of the abuse of power by the Fund's officials and potential or actual conflicts of interests within the Fund;
- 6) check reliability and timeliness of provision of information to the state authorities that supervise and control the Fund's activities as part of their competency;
- 7) evaluate the types of the Fund's activities performed through involvement of legal entities and individuals on a contractual basis (outsourcing);
- 8) perform other functions connected with the control of the Fund's activities.

3. It shall be prohibited for the Head of the Internal Audit Unit to occupy positions in other legal entities, non-government organizations or to carry on entrepreneurial activity.

The Head of the Internal Audit Unit is entitled to demand calling an extraordinary meeting of the Supervisory Board.

4. In the course of their functional duties, the employees of the Internal Audit Unit are entitled to review the documents, information, written explanations on the Fund's activities, to have access to the system of automation of the Fund's operations and to receive written explanations from the Fund's managers and employees on the issues that arise in the course of the check-up and based on its results.

Article 9. Charter Capital and the Budget of the Fund

1. The Charter capital of the Fund is formed out of the funds earmarked in the State Budget of Ukraine and other sources that are not prohibited by law, in the amount necessary to ensure the fulfilment of the Fund's charter objectives.

The contribution to the charter capital of the Fund may be made in monetary funds, any property of property rights not restricted by the Ukrainian law.

2. The charter capital of the Fund is formed in full no later than in six months from the moment of the state registration of the Fund, and may be increased no later than in six months from the moment of the state registration of the relevant amendments to the charter of the Fund; formation of the charter capital in parts is allowed.

The formation of the charter capital of the Fund out of unacknowledged sources is prohibited.

3. The decision on increase or decrease of the Fund's charter capital shall be passed in accordance with the procedure set by law and the Charter of the Fund.

4. The Fund's annual budget may be formed with the State Budget funds, as well as the funds received by the Fund as grants or raised in any other way from any sources that are not prohibited by legislation taking into consideration the restrictions set by this Law. The amount of State funds in the Fund's budget must be sufficient at least to reach the minimal targets in the energy efficiency area determined by the international obligations of Ukraine. For this purpose, the Cabinet of Ministers of Ukraine may increase the charter capital of the Fund or provide the Fund with financing from the State Budget of Ukraine in accordance with budget law.

The Cabinet of Ministers of Ukraine may adopt a decision to perform additional state support of the Fund from a part of the funds allocated in the State Budget of Ukraine for the relevant year for financing of housing subsidies to the population for payment for the electricity, natural gas, services of heat and water supply and drainage, housing payment (maintenance of houses, buildings and adjacent area), removal of household garbage and liquid sewage, resulting from saving of expenses for implementation of the above program caused by implementation of energy efficiency measures within the Fund's programs by way of entering proposals to the Verkhovna Rada of Ukraine for introduction of changes to the Law of Ukraine on the State Budget of Ukraine for the relevant year. The procedure of determination of the amount of saving of expenses on housing subsidies to the population for payment for the electricity, natural gas, services of heat and water supply and drainage, housing payment (maintenance of houses, buildings and adjacent area), removal of household garbage and liquid sewage shall be determined by the Cabinet of Ministers of Ukraine.

5. The Supervisory Board shall determine the distribution of the budget between financing of the activities of the Fund and maintenance of the Fund.

6. The Fund shall not issue debt securities, attract funds on terms of loans, credits or on other terms that envisage payment of consideration for use of attracted funds and their mandatory repayment.

Article 10. Property of the Fund

1. The Fund shall independently possess, use and dispose its property and take any actions concerning its property that do not contradict legislation and the purpose of the Fund's activities.

The property of the Fund consists of the fixed and current assets, as well as other assets, with the value shown in the Fund's balance sheet.

2. The sources for the formation of the Fund's property and funds may be:

- 1) monetary and material contributions of the founder;
- 2) funds received on a free and non-repayable basis including those from donors;
- 3) funds envisaged by the Law on the State Budget of Ukraine for the relevant year for implementation of the Fund's programs;
- 4) property acquired on other legal grounds from other business entities, organizations and individuals in accordance with the procedure set by law;
- 5) other sources and proceeds that are not prohibited by legislation of Ukraine.

3. The fixed assets in state ownership that were transferred to the Fund under economic control, use or management shall be included into its assets but cannot be alienated in any way without the decision of the founder. The state property shall be written off or transferred in accordance with law.

All immovable property transferred to the Fund's charter capital or legally acquired by the Fund is in its ownership. The state property transferred to the Fund under economic control, use or management is not included into the Fund's charter capital and shall be used in accordance with the procedure envisaged by this Law.

4. The Fund shall bear the risk of accidental destruction or damage of the property in its ownership when taking any actions (including alienation, lease or liquidation) that do not contradict legislation or the purpose of the Fund's activities.

5. The Fund may acquire property rights and personal non-property rights and duties, and exercise them by entering into transactions in accordance with legislative requirements.

Article 11. Liability of the Fund and its officials

1. The Fund shall not be liable for the commitments of the state, and the state shall not be liable for the Fund's commitments except the cases envisaged by law.

2. The officials of the Fund are liable to the Fund for the damages caused to the Fund through their actions (omissions) in accordance with law.

If the liability under this Article shall be borne by several persons their liability to the Fund shall be joint and several.

Article 12. Independence of the Fund

1. The state authorities and local self-government bodies, as well as their officials, shall be prohibited to interfere in any way into the Fund's activities, or influence the Fund's management or employees in any way in the course of the performance of their official duties, except the cases envisaged by law and Charter of the Fund.

Damages caused to the Fund by such interference and/or execution of the decisions taken by state authorities and local self-government bodies that are recognized by the court as unconstitutional or invalid, shall be compensated by said authorities voluntarily or based on the court decision.

Article 13. Principles of review of applications by the Fund

1. The procedure for review and decision-making on applications for partial reimbursement of the costs of energy efficiency measures by the Fund includes the following stages:

- 1) preliminary energy audit and execution of the application and accompanying documents;
- 2) submission of the application by an beneficial owner or its authorized representative to the Fund;
- 3) review of the application for conformity with the Fund's programs;
- 4) adoption of the decision on conformity of the application with the Fund's programs and determination of the grant amount or rejection of the application;
- 5) confirmation by the Fund of the intention to provide the beneficial owner with partial reimbursement of the cost of energy efficiency measures specified in the application on condition of their implementation in line with the application and the Fund's programs;
- 6) partial reimbursement of the cost of energy audit on condition of compliance with the terms of the Fund's programs;
- 7) involvement by the beneficial owner of partner banks for funding the energy efficiency measures if necessary;
- 8) implementation of energy efficiency measures in accordance with the application and the Fund's programs;

- 9) verification of the implemented energy efficiency measures – establishment (confirmation) of compliance of the implemented measures with the terms of the application and the Fund's programs;
 - 10) partial reimbursement of the cost of implemented energy efficiency measures (payment of grants);
 - 11) other stages envisaged by the Fund's programs and approved by the Supervisory Board.
2. The recipients of grants are owners (co-owners) of buildings.
 3. The list of documents attached to the application shall be established by the Fund's programs.
 4. The verification procedure and the list of necessary documents shall be set by the Fund's programs.
 5. An application may be rejected by the Fund due to non-compliance with the requirements of the Fund's programs. In this case, the Fund shall provide the applicant with a motivated rejection in a written form.

In case of rejection, the applicant is entitled to submit a new application.

6. The Fund may refuse to issue a grant to the applicant in case of any inconsistencies between the energy efficiency measures implemented and the application and/or the Fund's programs until elimination of the defects within the period set by the Fund's programs

Article 14. Principles of the Fund's operations

1. In its operations, the Fund shall abide by the following principles:

- 1) transparency;
- 2) cost efficiency;
- 3) legality;
- 4) competition;
- 5) voluntariness;
- 6) responsibility;
- 7) free choice by the beneficial owners of the work contractor (service provider) to ensure energy efficiency of buildings (energy auditor), construction company, energy servicing company and a partner bank or other entity in accordance with the procedures and requirements determined by the Fund;
- 8) uniform approach to involvement of energy auditors, energy servicing companies, partner banks and other entities, persons engaged in verification of projects etc.;
- 9) quality control of goods, works and services within the projects implemented as part of the Fund's programs;
- 10) verification of the projects upon completion by the Fund or by independent persons contracted by the Fund.

Article 15. Functions of the Fund

1. To reach the objectives outlined in this Law and the Charter, the Fund performs financial, technical and other functions.
2. Financial functions of the Fund include:

- 1) provision of partial reimbursement of the cost of energy efficiency measures, grants to legal entities and individuals directly or via partner banks, particularly, for partial compensation of loans, interest rates or part thereof that are used for implementation of energy efficiency projects;
- 2) development and implementation of programs for partial reimbursement of the cost of economically justified energy efficiency measures;
- 3) financial evaluation of energy efficiency projects, making conclusions on the compliance of requests for financing and projects with the Fund's applicable financial requirements;
- 4) development of the financial eligibility criteria for partner banks to be engaged in implementation of programs and projects financed by the Fund;
- 5) regular periodic assessment of the Fund's programs;
- 6) cooperation with partner banks in the development, implementation and quality assessments of the Fund's products;
- 7) cooperation with donors;
- 8) attracting and managing financial resources of the Fund;
- 9) development of financial plans and budgets, monitoring of and reporting on the financial results;
- 10) other functions envisaged by the Charter of the Fund.

3. Technical functions of the Fund include:

- 1) introduction of the best practices and expertise in the energy efficiency sector and technical training in the energy efficiency area;
- 2) provision of advice to applicants on possible improvements of the technical component of their requests for financing;
- 3) technical evaluation of energy efficiency projects, making conclusions on the compliance of requests for partial reimbursement and projects with the Fund's applicable technical requirements;
- 4) development of the technical eligibility criteria for partner banks and other intermediaries to be engaged in projects financed by the Fund
- 5) development of recommendations for selection of construction companies and other contractors for beneficial owners from the Fund.
- 6) development of the eligibility criteria for persons, who may be involved to perform the verification of projects upon completion;
- 7) preparation of the list of energy efficiency measures, for which the Fund's partial reimbursement may be granted, development and delivering of programs aimed to achieve economically justified levels of energy efficiency;
- 8) ongoing monitoring and analysis of the quality of energy efficiency measures implemented with the Fund's participation, preparation of relevant reports;
- 9) supervision of the status of implementation of energy efficiency projects in the course of their implementation;
- 10) performance of verification of projects upon their completion and organization of independent verification by contracted persons;

- 11) collecting information about the actual energy saving caused by measures financed by the Fund;
- 12) creation and maintenance of databases of projects implemented as part of the Fund's programs and their efficiency, as well as any other databases that the Fund may need;
- 13) other functions envisaged by the Charter of the Fund.

4. Other functions of the Fund include:

- 1) development of marketing and communication campaigns, researching of relevant markets (construction services, building materials, energy audit services, etc.);
- 2) communication activities connected with the development of the people's awareness and knowledge in energy saving and energy efficiency areas;
- 3) maintenance of the Fund's official website;

Within the limits and the procedure set by the Supervisory Board, the Fund is entitled to engage legal entities and individual entrepreneurs for performance of specific functions on a contractual basis (outsourcing) taking into consideration the requirements set by the Law of Ukraine "On Public Procurement".

Article 16. Financial and Technical Office of the Fund.

1. The financial and technical functions of the Fund are performed by the Fund's structural units - the Financial Office and the Technical Office respectively.

The Financial Office and Technical Office are headed by the Chief Financial Officer and the Chief Technical Officer respectively.

2. When evaluating the energy efficiency projects, making conclusions on the compliance of requests for and projects with the Fund's requirements the Financial Office and the Technical Office act independently from each other and from any other body or official of the Fund.

Article 17. Specifics of Financing by the Fund

1. The Fund provides partial reimbursement of the costs of energy efficiency measures in accordance with the programs approved by the Supervisory Board.

The Fund is entitled to provide partial reimbursement of the costs of energy efficiency measures to applicants directly or indirectly through partner banks.

To provide indirect financing the Fund is entitled to enter into agreements with partner banks under which the Fund will disburse grants defined in Part Three of this Article. The partner banks will be obliged to use such grants exclusively as a source of discharge of the obligations of beneficial owners under loans for implementation of energy efficiency measures on condition of the compliance with the requirements of the Fund's programs.

The programs of the Fund should provide that partial reimbursement by the Fund of the cost of energy efficiency measures requires either the approval of the relevant request for financing and the project by both the Financial Office and the Technical Office, or by the partner banks in accordance with the simplified procedure of approval.

The simplified procedure of approval of request for partial financing reimbursement by the Fund of the cost of energy efficiency measures shall be developed by the Technical Office and the Financial Office

and shall be approved by the Supervisory Board. The simplified procedure of approval must contain criteria for the evaluation of requests, projects and applicants and shall ensure the control of their compliance with the requirements of the programs of the Fund.

If an approval of the Financial Office and the Technical Office is required, its absence may not be overruled by any other body of the Fund and any deeds that envisage reimbursement by the Fund of the cost of energy efficiency measures are null and void, unless approved by the Technical Office, the Financial Office and the Board of Directors.

2. The Supervisory Board shall establish the procedure for filing and review of appeals to rejection of applications for reimbursement of the cost of energy efficiency measures.

3. In the context of this Law, the grant that is provided by the Fund is a non-repayable financial aid provided directly or indirectly through partner banks to legal entities and/or individuals selected in accordance with the rules of the Fund for the implementation of energy efficiency measures envisaged in this Law or for the reimbursement of a part of cost of such measures after their implementation in accordance with the Fund's rules and relevant agreements. The Fund's services shall be provided for beneficial owners free of charge.

Grants are provided by the Fund exclusively in the volumes set by the key areas of the Fund's activities and the strategy.

The maximum amount of partial reimbursement of the cost of energy efficiency measures under individual programs of the Fund shall be set by the Supervisory Board by submission of the Board of Directors.

Article 18. Energy efficiency measures financed by the Fund

1. Energy efficiency measures that may be partially reimbursed by the Fund include:

- 1) thermal modernization;
- 2) implementation of efficient systems of monitoring and management;
- 3) installation of highly efficient heating and/or cooling systems and equipment, as well as replacement of existing system and equipment with more efficient ones;
- 4) other measures, which lead to reduction of consumption of energy resources at a constant or higher quality of housing and communal services in cost-effective way including the measures aimed to the increase of the share of electricity generated out of renewable energy sources.

The energy efficiency measures for existing buildings should be cost-effective, economically feasible and contribute to energy efficiency target set by the legislation on energy efficiency.

2. Partial reimbursement of implementation of thermal modernisation and major renovation of buildings shall be made subject to the availability of the energy performance certificate of such buildings for the purpose of determination of economically and technically optimal level of their energy efficiency, unless this Law provides for otherwise.

3. By submission of the Board of Directors of the Fund, the Supervisory Board shall establish the list of energy efficiency measures, the cost of which may be reimbursed as part of the Fund's programs and publish it at the Fund's official website.

Article 19. Requirements to implementation of energy efficiency projects

1. The Supervisory Board shall determine the requirements to the projects that may receive partial reimbursement of energy efficiency measures from the Fund, and to the applicants, who may obtain reimbursement, documents and information submitted by the applicants.

The Supervisory Board of the Fund shall also determine requirements for:

- 1) the energy audit, which is financing or co-financed by the Fund;
- 2) verification of completed projects;
- 3) equipment and materials.

The Fund shall aim at supporting projects, equipment and materials of energy efficiency performance going beyond the minimum standards and norms required by the law or beyond the average available on the market (if minimum standards and norms are not available)

The eligibility requirements shall ensure that energy performance requirements set by the Law related to energy performance of buildings are respected.

3. The aim of the Fund's activity is to reach on average a total saving of energy resources of at least the equivalent of 20 percent in the totality of all projects financed or co-financed by the Fund. The minimum target levels of saving for individual projects may be set depending upon the type, nature, size and other features of the project.

Article 20. Data Collection and Analysis by the Fund

1. The Fund shall control, collect and keep data on the results of the implementation of energy efficiency measures, actual saving of energy and funds under the energy efficiency programs implemented with participation of the Fund.

For the purposes of monitoring, systemization of data on the results of implementation of energy efficiency measures and analytical work, the Fund is entitled to use information from the database of reports on the results of examination of the systems of heating, hot water supply and air conditioning of the buildings, which is formed and maintained by the central executive authority in charge of the state policy in the areas of efficient use of the fuel and energy resources, energy saving, renewable energy sources and alternative fuels.

The Fund is entitled to use information from the relevant local and central state and municipal bodies on housing subsidies assigned to the residents of buildings where energy efficiency measures financed or co-financed by the Fund are implemented or in relation to which a request for partial reimbursement is made.

2. For the purposes of transparency, the Fund shall collect, keep, analyse and publish in accordance with the procedure determined by the Supervisory Board aggregated information about each project financed by the Fund and on recorded results in terms of energy savings, including projects where the Fund has identified poor quality of construction works, energy audit services, equipment, materials that do not meet the Funds rules and criteria.

Article 21. Quality control of implementation and verification of energy efficiency projects

1. During the term of implementation of energy efficiency projects, the Fund is entitled to:

- 1) check the compliance with the terms of agreements with partner banks, construction companies, energy service providing companies, work contractors (service providers) in the area of energy efficiency of buildings, borrowers;
- 2) make proposals as to elimination of defects in the project implementation;
- 3) check the final quality of implementation and the results of energy saving and energy efficiency projects (verification) and contract other persons for that purpose;
- 4) take other measures for quality control and verification of energy efficiency projects envisaged by law and agreements.

Article 22. Accounting and reporting

1. The Fund is obligated to keep accounting records of its operations, prepare and submit reporting in accordance with the requirements of legislative and regulatory acts and in accordance with law and international financial reporting standards.

The Fund prepares financial reporting and consolidated financial statements according to International Financial Reporting Standards (IFRS).

Annual financial statements of the Fund are subject to mandatory audit by an independent auditor. The criteria for selection of an independent auditor are set by the Supervisory Board in accordance with the legislation.

Article 23. Promulgation of information on the Fund's activities

1. The following information is subject to mandatory promulgation on the official web-site of the Fund:

- 1) goals of the Fund's activities and the progress of their achievement;
- 2) quarterly and annual financial statements of the Fund including sources of its funding;
- 3) auditor opinions on the annual financial statements of the Fund;
- 4) the Charter of the Fund in its effective wording and its previous wordings;
- 5) curriculum vitae (including the professional record) of the members of the Board of Directors of the Fund taking into account the requirements of the Law of Ukraine “On Protection of Personal Data”;
- 6) curriculum vitae (including the professional record) of the Head and members of the Supervisory Board taking into account the requirements of the Law of Ukraine “On Protection of Personal Data”, principles of their selection, their membership in supervisory boards of other business entities, as well as indication who of the members of the Supervisory Board is independent;
- 7) names and contact details of managers of units of the Fund;
- 8) annual reports of the Supervisory Board and the Board of Directors of the Fund;
- 9) structure, principles of formation and amounts of remuneration or salary of the officials of the Fund and additional benefits they receive (are entitled to receive) when performing their official duties and due to their resignation; and

- 10) programs and projects of the Fund;
 - 11) procedure for submission of applications to the Fund;
 - 12) procedure for receipt of partial reimbursement of the cost of energy efficiency measures by beneficial owners;
 - 13) information on the recipients of financing from the Fund (by their consent);
 - 14) other information, to be promulgated based on the decisions of the Supervisory Board.
2. The Fund shall promulgate the annual financial statements together with the auditor's conclusions thereon by the 30th of April of the year following the reporting period.

Article 24. Procedure for winding-up of the Fund

1. The Fund may be wound up as a result of reorganization (merger, takeover, break-up, transformation) or liquidation in accordance with the law.
2. The decision on winding-up of the Fund shall be adopted by the Cabinet of Ministers of Ukraine.
3. In case of liquidation of the Fund, all funds that remain after the creditors' claims are satisfied shall be transferred to the State Budget of Ukraine.

Article 25. Closing and transitional clauses

1. This Law comes into effect on the day following the day of its publication, except of Part Two of Article 18 of this Law, which comes into effect simultaneously with the Law of Ukraine "On Energy Efficiency of Buildings".
2. The laws of Ukraine and other regulatory acts, adopted prior to the effective date of this Law, shall apply in the part that does not contradict this Law.
3. Partial reimbursement of the cost of measures for thermal modernization of buildings without the certificate of energy efficiency shall be approved by the Supervisory Board before introduction of certification of energy efficiency of buildings in accordance with the requirements of the Law of Ukraine "On Energy Efficiency of Buildings".

Thermal modernization of buildings shall be understood as a set of works aimed to improve thermomechanical indicators of building envelopes, consumption of energy resources by technical (engineering) systems and ensuring energy efficiency of buildings at the level not lower than the level set by regulations on energy efficiency of buildings, which is implemented in the course of reconstruction, capital or current repair or technical re-equipment of buildings.

The measures that envisage installation of heating or cooling systems and equipment, as well as replacement of existing systems and equipment shall be deemed highly efficient or more efficient if their implementation ensures saving of relevant energy resources at the level of 10 percent at least.

4. Amendments shall be introduced to the following laws of Ukraine:

1) Part one of Article 15 of the Law of Ukraine "On Investment Activities" (Bulletin of the Verkhovna Rada of Ukraine, 1991, No. 47, p. 646; 2011, No. 34, p. 343; 2017, No. 18, p. 221) shall be supplemented with the words: "except the construction objects that are constructed (reconstructed) involving the funds of the Energy Efficiency Fund";

2) in the Law of Ukraine "On Energy Saving" (Bulletin of the Verkhovna Rada of Ukraine, 1994, No. 30, p. 238 with subsequent changes):

Article 3 shall be supplemented with a clause "л" as follows:

"л) stimulation of energy efficiency and energy saving measures including that through the programs of the Energy Efficiency Fund.";

The Law shall be supplemented with Article 14-1 as follows:

"14-1. Energy Efficiency Fund.

For the purposes of motivation of individuals and legal entities to implement energy saving and energy efficiency measures in Ukraine, the Energy Efficiency Fund shall be established and the procedure of its activities shall be defined by the law.

The charter capital of the Energy Efficiency Fund shall be formed out of the funds of the State Budget and other sources that are not prohibited by law. The Energy Efficiency Fund may receive financial contributions and aid from governments, agencies and institutions of foreign states, as well as international financial organizations, in the form of targeted grants or otherwise on the basis of relevant agreements.

The Energy Efficiency Fund provides partial reimbursement of the cost of energy efficiency measures to individuals or legal entities in accordance with the Fund's programs ";

3) Part two of Article 3 of the Law of Ukraine "On Management of State-Owned Property" (Bulletin of the Verkhovna Rada of Ukraine, 2006, No. 46, p. 456; 2012, No. 4, p. 23; 2016, No. 3, p. 25, 2017, No. 4, p. 43) shall be supplemented with the paragraph 4 as follows:

"The specifics of management of the Energy Efficiency Fund shall be defined by the Laws of Ukraine "On Energy Efficiency Fund";

4) Part one of Article 12 of the Law of Ukraine "On Specifics of Realization of the Property Right in a Multi-Family Building" (Bulletin of the Verkhovna Rada of Ukraine, 2015, No. 29, p. 262, with amendments) shall be supplemented with the new clause 2-1 as follows:

"2-1) cost, which relating to the fulfilment of obligations under loan agreement concluded under the programs of the Energy Efficiency Fund;";

5. Within the three-month period of the publication of this Law, the Cabinet of Ministers of Ukraine shall:

prepare and submit to the Verkhovna Rada of Ukraine the proposals to bring the laws of Ukraine into conformity with this Law;

ensure establishment of the Energy Efficiency Fund and formation of its managerial bodies;

ensure adoption of the regulatory acts necessary for implementation of this Law;

bring its own regulatory acts into conformity with this Law;

ensure that the ministries and other state central executive authorities bring their regulatory acts into conformity with this Law.

President of Ukraine

P. POROSHENKO

Kyiv

8 June 2017

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