



ROMANIAN ENERGY EFFICIENCY FUND

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FREE

OPERATIONAL MANUAL



INTRODUCTION

This Operational Manual (OM) lays out the principles and implementation rules governing the Romanian Energy Efficiency Fund (FREE). In so doing it gives guidance to all the key actors involved in project management, implementation and monitoring. The Manual has the goal of creating a common understanding of project principles and practice for all stakeholders, and it aims to create the foundation for a partnership among all.

The contents of this document including the annexes cannot be modified or set aside without the explicit approval of the World Bank, based on the recommendations of the Board of Administration.



1. BACKGROUND

1.1. COUNTRY CONTEXT

1.1.1. SECTOR

Romania's energy intensity (total primary energy supply per 1000 US Dollar of GDP) and GHG intensity (CO₂ emissions per 1000 US Dollar of GDP) are among the highest in the region. Inefficient energy utilization exists in all sectors of the economy, notably in the industrial sector, which accounts for over 60% of energy consumption, but only 33% of GDP. In large part, such high intensity is due to aging equipments of antiquated technologies, and is an impediment to improving competitiveness of Romanian industry. The situation is worsened by Romania's increasing dependence on imported energy which is adversely affecting its trade balance.

Recent studies have estimated that the potential for economically viable savings in industry (ranging from no-cost to low-cost and to high-cost measures) is very high—perhaps about 50%—providing win-win opportunities for the global environment and energy users. Detailed studies also have shown that there are many energy efficiency investment opportunities yielding high financial rates of return and reasonably short payback periods. One can highlight too a high number of opportunities for cost-effective savings of 20-30% of thermal energy use in the residential, commercial and public sector.

The awareness and demand for improving energy efficiency has been increasing. Private enterprises as well as restructured and/or privatized state enterprises are actively exploring cost reduction and efficiency improvement strategies as a consequence of steep increases in energy prices (gas, electricity and district heat), and with a view to improving competitiveness through energy efficient technologies. The large energy savings potential underpin the very substantial potential for financially viable energy efficiency investments.

However, actual investments in energy efficiency are dismally low. This is in large part due to the absence of appropriate funding mechanisms, coupled with a lack of expertise in identifying and developing commercially viable projects, which could be capitalized on if the incremental risks involved in developing a proper energy efficiency market could be overcome.

1.1.2. GOVERNMENT POLICY

The GoR recognizes that the high energy intensity of the economy is a major impediment to improving the competitiveness of Romanian industry, reducing the negative trade balance, relieving the burden which high heating bills place on the population and local governments, and improving the environment and implementing internationally agreed environmental targets. The GoR also recognizes that the financial sector needs time to evolve from the reforms, after which it could be expected to offer financing for such investments as energy efficiency. Therefore, GoR's strategy is to fill the financing gap for promoting energy efficiency investments on commercial basis, which also brings about a demonstration effect on the financial sector.



The Romanian experience is expected to be replicable in other countries of the region where a similar potential for energy savings and GHG emission reduction through increased investments in energy efficiency exists and where only scant domestic commercial financing for energy efficiency is available for similar reasons as in Romania. Examples are Bulgaria, Slovakia, Ukraine and Russia.

1.2.2. ORGANIZATIONAL CONTEXT

FREE will need to link closely with existing entities in Romania that can participate actively in project development. Manufacturers, suppliers and dealers of energy efficiency equipment, various industry associations, ESCOs, engineering firms, and business advisory centers have connections with industries, and their own particular interests which could be harnessed to identify projects for the Fund and support potential clients in the preparation of projects. A "finder's fee" of 1% of project loan has been considered to reflect the cost of developing the pipeline, which is estimated to be sufficient compensation to potential partners. However, it is to be noted that many of the potential partners require training in order to provide effective project pipeline development services.

1.2.3. DONOR CONTEXT

The project design has drawn extensively on the varied experience with energy efficiency activities in Romania, on worldwide experience with energy efficiency funds and on other international experience with financing of energy efficiency and environmental investments.

The project will closely coordinate with the UNDP-executed GEF project "Capacity Building for GHG Emission Reduction through Energy Efficiency Improvement in Romania". The main focus of the UNDP project is to address needs to provide increased flow of information, training and technical assistance to assist enterprises and other potential clients in identifying and preparing commercially attractive energy efficiency projects.



2. PROJECT DESCRIPTION

2.1. PROJECT PURPOSE

The aim of the proposed project is to enable companies in the industrial sector and other energy consumers to adopt and utilise energy-efficient technologies, financed under commercial criteria by the Romanian Energy Efficiency Fund (FREE) and co-financiers. This would put the economy onto a sustainable path of lower energy intensity and green house gas (GHG) emissions.

2.2. PROJECT OBJECTIVES

The project supports the following development objectives:

1. promoting economic growth through enterprise sector reform, particularly better utilization of energy resources

The project would contribute to this objective by providing seed capital to a market-oriented financial facility that would offer financing for commercially attractive energy efficiency projects which would reduce production costs and improve competitiveness. The host enterprises targeted would be in the private sector which still experiences difficulties to access Romanian financial markets and faces very stiff collateral requirements. The Fund will fill a financing gap by originating transactions not currently being pursued by the Romanian financial sector, by combining expertise in energy efficiency analysis, structured finance and credit analysis, and by attracting commercial co-financing.

2. protecting and sustainable developing environmental resources

The project would address this objective by financing investments that would reduce energy consumption, and thereby contribute to reduction in air pollution and green house gas emissions. The environmental goals addressed by the project are closely linked to the EU accession standards, which are also set as an important development benchmark in the IBRD CAS.

2.3. PROJECT COMPONENTS

2.3.1. INVESTMENT FINANCING (US\$ 8 MILLION)

Loans for Investments: Loans will be made on a commercial basis to creditworthy customers from this fund that will revolve with interest and principal payments flowing back into it for additional loans. Borrowers will be targeted who have good growth prospects and where the energy savings from the investments would generate positive cash flows, which would be partially used to repay the loans. Loans will be made in US dollars or in dollar denominated local currency; repayments would also be made in dollar denominated local currency. The client would thus bear the exchange rate risk.

In the first phase, the Fund will focus primarily on financing projects within restructured and/or privatized industries, which can establish basic creditworthiness. Eligible projects would be limited to those meeting certain criteria to minimize risk and maximize the potential for success.



These criteria include:

- The project must have a relatively short payback time (generally under three to four years);
- The investment to be in the range of US\$ 50,000 to \$800,000 (to minimize transaction costs on the low side, and to limit exposure from a limited number of projects on the high side);
- At least 50% of each project's benefits have to come from energy savings (e.g., process or capacity improvements that have ancillary energy savings benefits are not eligible);
- The technology must be well proven in the proposed application to avoid all technological risk.

The main energy efficiency technologies that meet these criteria are burners and boilers, variable speed drives, condensers for power factor improvement, compressors, controls, steam traps.

Other Types of Financing: Project financial support may include debt financing, equipment leasing, and payment for services, and/or various combinations of these. The Fund is designed to be flexible both in terms of product mix and terms such that the Fund Manager can offer the financial products which the evolving market demands.

Equity is another important part of the overall menu of financing instruments to further energy efficiency. Convertible, mezzanine and equity investments provided by the Fund should follow at a later stage, when sufficient debt investments have taken place to assure revolution of funds, and only if market conditions require it and when exit is feasible.

Fund Operation: FREE's financial transactions would start up slowly in the initial years and would most likely not be sufficient to generate a fee income covering the set up costs of FREE initially. As experience is gained, the number of projects can be increased sufficiently, achieving self-financing of FREE after about three years. Analysis during project preparation has shown that the project will need to have an implementation period of at least eight years to be able to signal a sustainable operation. With a positive external environment, the most likely outcome would be that almost all the initial seed capital would be returned to the Romanian government for use in other projects dedicated to the GHG reduction agenda.

The actual investment implemented under the project will be a multiple of the initial capitalization. The Fund will revolve, and the interest payments and principal repayments will be used for new loans. It is expected that investment of more than US\$ 65 million will be financed during the project life of 8 years. This amount will have been triggered by GEF seed capital of US\$ 8 million and other funds, including a minimum 20% contribution to project costs by the borrowers and commercial co-financing of about US\$ 13 million.

Recycling of funds: FREE would maintain all funds returned to it, including interest and other incomes from investments, in a revolving fund account, which would also be used for financing eligible projects. All such re-use would be subject to the same criteria as applicable to the subprojects financed from the GEF funds under the project and would be governed by all provisions of the grant and implementation agreements.

2.3.2. TECHNICAL ASSISTANCE (US\$ 2 MILLION)

This component covers three broad areas:

- Capacity building part includes activities in initial project development, workshops and seminars for partners and clients, training for fund manager and partners in energy efficiency financing techniques, and monitoring and evaluation (estimated cost \$500,000);



- Fund management part includes retainer fees of the Fund Manager for the first three years (estimated cost \$900,000);
- FREE administration part includes its set-up and running costs during the first four years (estimated cost \$600,000).

Capacity Building: The first category of TA covers tasks directed mostly towards potential clients and partners of FREE to enable the development of successful investment projects and strengthen the necessary partners of the fund in providing essential services and generate and disseminate information to potential financiers and borrowers about the benefits to be achieved with energy efficiency investments. It is in this TA category that the project will actively collaborate with several other organizations. More specifically, TA is required in the following areas:

- *Project development:* During the first three years, energy audits and feasibility studies will have to be carried out to develop bankable proposals that have good chance to be financed by the Fund. For the first projects, the Fund may cover the total cost of the proposal; very soon however the clients will have to contribute to the development, with their share of the cost rolled into the loan amount (estimated cost of US\$ 90,000).
- *Workshops/Seminars:* In order to support project development, partners of the Fund (consultants, ESCOs and other aggregators) are trained in the know-how to develop proposals targeted at the requirements of the Fund and potential clients have to be educated through outreach activities about the benefits of energy efficiency investments and the procedures of the fund. The material for these two kinds of activities has to be developed on the basis of success stories and development of training and promotional materials. It is expected that at about midpoint of the project an international seminar on FREE experience and replication potential would be organized (estimated cost of US\$ 60,000).
- *Technical capacity building* and development of alternative deal structures for energy efficiency investment for both the Fund Manager and selected partners such as ESCOs and Business Advisory Centers. It is expected that the delivery of these new deal structures would also need increased support (estimated cost of US\$ 90,000)
- *Monitoring and Evaluation* activities are paramount for the success of the project. Since it is expected that a large number of projects will be implemented over the lifetime of the project, M&E efforts will have vary over time in their intensity. In the beginning of the project monitoring of project implementation and verification of energy savings and CO2 emissions, including reporting to GEF, will be intense. For the first projects, and those that will test investments in new sectors, different technologies, or other innovations, a verification of the actual savings will take place. For projects that are replicating previous projects, a short M&E form will be developed. During the first few months of project implementation, an M&E methodology and an implementation plan will be developed. The M&E information will provide the basis for the development of success stories to be used, e.g., in the outreach activities (estimated cost of US\$ 250,000)

Fund Management: The second part of the TA covers the retainer fee for the Fund Manager during the first three years. This fee is intended to cover all costs of the Fund Manager, including deal origination, due diligence and selection, contract finalization, portfolio management, etc., related to the Fund as well as exploring and concluding co-financing arrangements. The TA will cover this fee during the first three years of the contract and the Fund will cover such fees thereafter from its own income when the Fund is expected to become self-financing. The performance contract of the Fund Manager would be designed to provide the incentive to realize self-financing targets through actively seeking to place funds in investment projects; at the same time the success fee payable on net asset value of the Fund at the end of



five years would balance the risk-return for the portfolio and ensure that the long-term sustainability of the project is actively pursued by the Fund Manager.

FREE Administration: The third part of the TA covers FREE's administrative costs, which include set-up costs and running costs. The set-up costs cover the initial infrastructure (facilities, computers, communication, etc.) and the running costs cover the salaries of the staff of FREE, honoraria for the BoA members, fees for investment committee members, communications costs, transportation costs of key staff and members of BoA, logistics, etc. The TA will finance FREE's administrative costs fully during the first year and on a declining proportion basis over the next three years. Accordingly, FREE would be expected to cover gradually increasing portions of its annual operating budget from its own income. The annual limits proposed for covering these costs by the TA are 100%, 90%, 70% and 50% respectively over the four years.

The major features of FREE as a financial institution are:

- Independent and autonomous legal entity
- Demand-driven financial institution;
- Revolving fund;
- Private –public partnership;
- Prudential investment portfolio;
- Transparency and promoting equal opportunities for the eligible customers;
- Sustainability of its investments;

FREE aims to provide through successful implementation of the GEF/IBRD program on energy efficiency a demonstration effect and the increase the awareness of the traditional banking sector related to the sustainability of the energy efficiency investments in Romania



3. INSTITUTIONAL ARRANGEMENTS

The Romanian Fund for Energy Efficiency, hereinafter referred to as FREE, is established under the Emergency Ordinance no 124 from 8th of October 2001 as an institution of public interest having its own legal personality, independence and financial autonomy and headquartered in Bucharest. The Fund has as main object the management of financial resources received by Romania from the Global Environmental Facility through the International Bank for Reconstruction and Development (IBRD) under the Grant Agreement concluded between IBRD and Romania, represented by the Ministry of Public Finance, as well as the financing of energy efficiency investment projects for energy efficiency development in Romania according to the priorities set forth by the annual energy efficiency programs approved by the Government.

3.1. BOARD OF ADMINISTRATION

The managing body of the Fund is the Board of Administration (hereinafter referred to as “the Board”), which consists of 7 members, representatives of the public and private sector as follows:

- one representative of the Ministry of Industry and Resources designated by the minister;
- one representative of the Ministry of Waters and Environmental Protection designated by the minister;
- 5 representatives of the private sector, of whom minimum 2 members are financial experts with a good reputation and professional training.

The members of the board of administration shall meet the following conditions:

- a) they cannot be spouses, relatives or akins up to the second degree
- b) they must not have a criminal record

The representatives of the Ministry of Industry and Resources and the Ministry of Waters and Environmental Protection shall be appointed by order of the head of the relevant institution. The appointed representative of the Ministry of Industry and Resources is the chairman of the board of administration, position that he/she shall hold for one year. The representatives of the private sector, including the financial experts, shall be appointed by the chairman of the board of administration based on the proposals of employer and professional associations.

The Board is empowered by emergency ordinance no 124/8/10/01 to develop the policy and strategy of FREE in accordance with the national policies for energy efficiency and climate change and its structure mirrors the public private partnership features of FREE.

The tenure of the members of the board of administration is of four years and it may be extended only for another 4-year period through the procedure provided for their appointment.

Upon the expiry of the chairman’s mandate, the members of the board of administration shall elect a new chairman from amongst the members of the board for successive periods of one year, under the quorum and vote conditions provided in 2.1.3 herein.

The members of the Board may be revoked by the appointing authority under the following circumstances set up in the emergency ordinance no 124/8/10/01:

- a) they committed criminal acts for which they were given final convictions or any other deeds affecting the authority of FREE



- b) they are in a conflict of interests with FREE as defined in the internal regulations of FREE
- c) they do not promote the principles of FREE
- d) they do not attend 3 consecutive monthly meetings of the board of administration

In addition, the members of the Board appointed by the Ministry of Industry and Resources and the Ministry of Waters and Environmental Protection may be revoked in the event that they lost the capacity for which they were proposed by the above mentioned authorities.

The board of administration manages the entire activity of the Fund. For such purpose, it exercises the following duties:

- a) monitors the compliance and complementarity of the Fund's strategy and policy with the national strategy and policy for energy efficiency development and monitors for the financing policy of the investment projects to be achieved in accordance with the annual energy efficiency programs approved by the Government;
- b) approves the organizational chart of the Fund and establishes the remuneration for its employees as provided for by the legislation in force applicable to the salaries payable to public institutions financed through extra-budgetary funds;
- c) adopts the internal regulations of the Fund, including the Operation Manual and the Organization and Operation Regulation;
- d) approves the evaluation and selection criteria for energy efficiency investment projects in view of their financing;
- e) selects and appoints the Fund's executive director;
- f) approves the Fund's financial and investment policy;
- g) approves the income and expense budget and the annual business report of the Fund, prepared by the executive director;
- h) decides the business strategy of the Fund;
- i) approves the business plan prepared by the Fund Manager;
- j) appoints the investment committee members;
- k) designates independent external auditors to check the financial statements of the Fund, receives and approves their reports;
- l) approves financing for energy efficiency investments based on the investment committee's proposals;
- m) adopts any other measures deemed necessary to achieve the Fund's objective.

The BOA elaborates the internal procedures and rules of the fund and makes decisions concerning financing of the investment projects based on the appraisal reports made by the Fund Manager and decision of the Investment Committee. It is also part of its responsibilities to foster the long-term sustainability of the Fund consistent with its fiduciary responsibilities to the financiers.

The board will develop and have in place its mechanisms to evaluate and improve the management team performances.

The Board as a whole should have a diversity of background, knowledge and experience, and following core competencies:

- Strategic vision and problem solving-attitude;
- Knowledge of finance and key accounting matters (such as: how to read a balance sheet, profit and loss account, cash flow statement and financial ratios, etc.);
- Leadership skills under crisis circumstances;



- Knowledge of the energy efficiency and environmental issues;
- Valuable contacts and relationships for the Fund;
- Well connected internationally;
- Capacity to remain active on the long term.

3.1.1. THE ELIGIBILITY CRITERIA FOR THE BOARD MEMBERS

The board should be composed of qualified individuals and should reflect diversity of experience (technical, financial, credit analysis etc.). The eligibility requirements should be fully disclosed to the professional and employers associations, which make proposals to the Chairman.

Each member should be able to devote sufficient time and effort to his/her duties as Board.

The board members are indemnified based on the meeting fee and according with their services provided within the investment committee. The meeting fee level is set through the internal regulation of FREE, and should ensure that a rational and decent level of meeting fees is paid in accordance with the market rates with similar financial institutions. In any case, the World Bank “no objections” is prior to payment requested.

A suitable board member should have the following personal characteristics:

- Proven personal integrity in the past and credibility
- Capacity to read and understand financial statements (this of course, excludes those who are invited to join the Board as experts in energy efficiency or environmental issues, but it is compulsory in the case of the private sector representatives)
- Absence of conflicts of interest with the Fund
- Experienced and well informed about the type of Fund services, and especially experienced in the area of corporate fund businesses (experience from other boards would be an advantage)
- Time available to be dedicated to the Board affairs.

All board members have one vote each, despite the appointment procedure of the board members. The board should adopt the decisions based on the voting process.

Equal treatment of the board members should be preserved.

All major decisions (such as: approval of the large and complex investment projects) should be considered by the Board as a whole (in its plenary session)

3.1.2. SELECTION PROCESS FOR PRIVATE SECTOR REPRESENTATIVES

To remain effective, the first Chairman of the Board should be responsible for selecting, based on the above eligibility criteria, the private sector representatives in the Board of Directors.

The Chairman should ensure that through board appointment is providing a mix of proficient members, each of whom is able to add value to the Board as a whole, and to bring independent judgment in order to ensure maximum credibility within the banking and financial business community.

The invitation to nominate suitable representatives based on the eligibility criteria should be made to the professional and employers associations which are active in the area of energy



efficiency and environment protection. The invitation should be extended by the Chairman himself/herself to the banking and financial business community from Romania. The identification and selection process of the most suitable members representing private sector within the Board should be managed by asking the associations what skills are needed on the Board to add value on it in the context of Fund operations. Consequently, the composition of the Board should be finalized having in mind and on the Chairman's agenda the strategic considerations and objectives of FREE – increase co-financing share, build partnerships with private banking sector.

3.1.3. BOARD MEETINGS AND AGENDA

In order to carry out its functions, the Board will meet in monthly working sessions and whenever necessary. The Board shall meet when convened by the Chairman or by at least three of its members. The meetings of the Board are chaired by the Chairman or, in his absence, by one of the members designated by the Chairman.

The Board shall pass decisions with majority of votes in presence of at least five members, including the chairman or, as case may be, the substitute designated by the chairman. If, upon passing a decision, one of the members of the Board is aware that s/he is in conflict of interests, s/he shall be bound to abstain from voting. Failure to comply with such obligation can cause his/her revocation and the annulment of the respective decision.

The Executive Director (ED) and the manager or, as case may be, a representative of the Fund Manager will attend Board meetings as invitees, i.e. without voting rights, except when discussed about the position of the Executive Director and his/her activity. If case would be, the Board can invite other members of the staff of FREE or of the Fund Manager to attend meetings in full or in part.

The convening method and the organisation of meetings are set forth in this manual and can be changed by decision of the Board following the above mentioned procedures.

Chairman of the Board sets the preliminary agenda. A tentative agenda listing the topics to be covered at the meeting should be prepared by the ED and approved by the Chairman. Also the Executive Director with the understanding that the Board should periodically review certain items should make proposal to be included on the agenda. The Executive Director knows that certain responsibilities fall under board examination and final approval, for example such as: the annual budget should be reviewed and approved by the board etc. Any member of the Board may request that an item/subject be included on the agenda.

All related material should be made available to board members with enough time before each meeting.

The preliminary agenda should specify the dates of the meetings, subjects to be covered, and material to be provided to members for preparation before each meeting.

The Board shall appoint a secretary for each meeting to prepare the minutes that will include the agenda, decisions, number of votes and separate opinions. All decisions made by the Board should be registered. The minutes should be also drafted during the board meetings, and approved and signed by its chairman. The minutes will reflect to the extent possible both the spirit and the letter of proceedings. The signed minutes should be disclosed to all board members for their information.



3.2. THE INVESTMENT COMMITTEE

In order to evaluate the financing applications of the beneficiaries, the Board shall appoint an investment committee of 3-5 persons, of which 2-3 persons will be financial experts. The investment committee consists of persons with economic training and experience in credit analysis, able to undertake the final check-up of the investment proposals. The investment committee shall meet on a regular basis (e.g. monthly, bi-quarterly, etc) or upon the request of the Board to review transactions recommended for financing.

The main task of the investment committee is to review the documentation submitted by the Fund Manager to the Board, in view of recommending financing of the projects. If the evaluation and selection criteria are fulfilled, the investment committee shall submit for approval to the board of administration the financing proposal together with the related documentation. The investment committee may make recommendations to the Fund Manager for completing the file, or it may reject the financing application in the event that the criteria for the evaluation and selection of the beneficiaries are not fulfilled.

In case of failure by the FM to fulfill the evaluation and selection criteria, the investment committee shall communicate them the decision of rejecting the financing application. The FM will inform the beneficiaries whose applications have been rejected which may file a new financing application under the conditions to be provided in the internal regulations of the Fund.

If, upon passing a decision, one of the members of the investment committee is aware that s/he is in conflict of interests, s/he shall be bound to notify the Board. The Board will subsequently decide if the respective conflict of interests is interfering or not with the individual's ability to perform a balanced and unbiased analysis and to provide an impartial opinion. The independence means no current or former employment with the client, which submitted the investment project to be financed, or any significant financial or personal tie to the client-company or its management that could affect or compromise the objectivity. However, a member might be considered independent when any relationship or influence is not interfering with the individual ability to exercise independent judgment. Independent means not only formally as defined above, but free of substantial ties to the client companies and its management.

The Board members should present a statement in order to prove the lack of any conflict of interests. Their statements will be registered.

The investment committee can approve, under the powers delegated by the Board the financing of projects meeting the evaluation and selection criteria below a threshold to be decided by the Board following the procedures set fort in 2.1.3 above.

3.3. FREE STAFF AND MANAGEMENT

The day-to-day activity of the Fund is managed by the Executive Director appointed by the board of administration following a competitive process, provided that s/he meets the professional training and experience requirements imposed by the nature of the Fund's activity as agreed with the World Bank. The Executive Director's tasks and responsibilities are established according to the provisions of the emergency ordinance no 124/8/10/01 and detailed in the internal regulations of FREE.



3.3.1. FREE STAFF

FREE will work with permanent staff and with short term associated personnel if needed,. FREE own staff will be kept small in terms of number of positions, taking into account fact that a Fund Manager expertise will complement the human resources needed for the project development.

The **Executive Director** of the Fund has the following duties:

- to manage the activity of the Fund's specialized departments;
- to prepare the Fund's draft business strategy, the draft of the income and expense budget and submit them for approval to the board of administration;
- to prepare the necessary documentation to release funds in accordance with the Grant Agreement between Romania and IBRD;
- to organize the selection process of the Fund Manager based on the acquisition procedures of IBRD;
- to monitor the activity of the Fund Manager;
- it is an ordinator of credits and provides the preparation of the income and expense budget and its execution according to the approval of the board of administration;
- to provide the preparation of the reports and any other materials for review and approval by the board of administration in accordance with the internal regulations of the Fund;
- to organize Board meetings;
- to sign financing contracts with the Fund's beneficiaries;
- to inform on a regular basis the board of administration on the stage of implementation of the financing projects;
- to organize the selection process of the financial experts;
- to carry out any other activities set forth by the board of administration.

The executive director is the legal representative of the Fund in relationships with individuals and legal entities, as well as before the competent courts, except for the cases established by the board of administration and provided in the Organization and Operation Regulation.

The executive director hires and dismisses personnel under the law and the internal regulations of the Fund; the internal regulations of the Fund shall establish the structure of personnel, the number of employees, and their rights and obligations, including in respect of the waging level.

The executive director concludes service contracts with external collaborators, individuals or legal entities, based on the terms of reference approved by the board of administration, for a limited period of time.

The executive director concludes any kind of legal documents related to the purpose for which the Fund has been established and retains its patrimony in accordance with the internal regulations of the Fund.

The Finance and Administration Function

The Finance and Administration function of FREE is ensured by a highly qualified Financial Controller who will have the overall responsibility for all financial management functions, including financial reporting, disbursement, consolidation, budgeting, planning, accounting and auditing aspects of the project.

Specifically, the functions of FREE in the financial management and accountancy area are to:



- Prepare annual, quarterly budgets and financial reports for FREE, to be submitted to the Board for approval, to the IBRD or any other donors/financiers;
- Establish accounting procedures for tracking FREE's expenditures according with Romanian Accounting Standards (RAS) and the IBRD auditing and reporting requirements and ensure they are followed;
- Keep records of FREE and accounting in conformity with the RAS and financiers requirements;
- Prepare balance sheets and report to financial-administrative bodies;
- Provide needed advice to the Board and the Executive Director concerning the legal financial matters and ensure that the legal requirements are met;
- Interact with FREE legal councilor regardless the legal aspects;
- Approve and account for all disbursements;
- be responsible for human resources management (labor contracts, payroll, keep log of the time spent by the external consultants, if the case, etc.);
- Disburses installments/payments for the approved loans and within the terms stipulated in the Subsidiary Grant agreement with MOPF and in conformity with Financing Contracts signed with borrowers for the approved investment projects;
- Monitor and report regularly to the Board about repayments status.

The **Financial Controller** of FREE has the following duties:

- define the internal control procedures in compliance with the World Bank Financial Management handbook;
- develop and maintain a satisfactory organization for the financial and accounting functions;
- recommend the selection of an accounting computer software solution and work (either independent or together with a consultancy firm to be selected) to achieve timely the full implementation, including full customization and adjustments, trial run and systems adaptation, of a accounting software package, to ensure that a sound financial management system satisfactory to the Bank is in place prior to World Bank Board presentation;
- develop the Financial Monitoring Reports, including performance and monitoring indicators, based on the models available with the World Bank;
- prepare financial statements, reports, budgets, financial projections and cash flows, as well as all project reports required either by the Bank and Government;
- provide leadership in designing, amending and operating the financial system and procedures of the project, including a comprehensive chart of accounts, documentary flow chart and the Project internal control and procedures manual;
- responsible for keeping updated accounting records in the software, that are essential for the generation of reports;
- prepare TORs based on the World Bank procedures for selecting auditing company;
- provide any other financial assistance for FREE start up;
- advise FREE Executive Director on all financial management aspects of the project with clear emphasis on policy and strategic issues, financial reporting, accounting, planning and budgeting and the financial operations of the project;
- liaise effectively and efficiently with the Bank staff / consultants, Ministry of Finance ("MoF") and all other Ministries involved in the Project, as well as with all the other parties involved in the project;
- monitor and report regularly to the Board about repayments status;
- report to the Executive Director and the Chairman of the FRE Board of Administration;
- fulfill the responsibilities of financial preventing control in compliance with the Romanian legislation.



Office Manager responsibilities are to:

- organize the entire administrative activity;
- manage daily administrative and logistical issues;
- provide technical and secretarial support to the Board meetings;
- prepare minutes of the Board meetings and keep needed correspondence registers;
- deal with suppliers in order to purchase all needed materials, furniture and other supplies;
- keep communication with the Fund stakeholders, financiers and clients;
- organize and develop communication with partners and clients;
- supervise and coordinate activities with Fund Manager related to customer care;
- provide needed support to the Financial Controller, if the case and in accordance with his/her guidelines;
- provide needed back up support for the management team;
- report to the Executive Director and the BOA chairman ;

If the activity will increase and its relationship and communication will be multiplied it is expected that additional staff will be hired: an accountant and a receptionist.

The labor division between the accountant and the Financial Controller is further highlighted.

Accountant responsibilities are to:

- keep records, legal ledgers and general accountancy of the Fund;
- comply with the RASs and other related regulations;
- prepare monthly statements and annual balance sheets to be approved by the Financial Controller;
- monitor payments made to the Clients and installments payment as well of the approved loans, communicate with the Fund Manager related any repayment schedule;
- prepare payrolls for the Fund staff, BOA members, and external collaborators;
- deal with controlling bodies and reporting to financial administration;
- report directly to the Financial Controller

Note: All the above mentioned duties and responsibilities are not limitative

3.3.2. SHORT-TERM STAFF AND PROFESSIONALS

The Fund (at both Board and executive level) should have the possibility of getting independent advice from external professionals such as: lawyers, auditors, technicians, environmental experts and other types, to be paid by the Fund. The respective Terms of Reference will be prepared by the Executive Director and submitted to the Board for approval.

In the selection process of the external professional assistance the Fund will follow the World Bank recruitment rules and procedures.

In carrying out the objectives of the Fund and in order to ensure fully accountability to the financiers and stakeholders, the Executive Director must appoint an independent external auditor (specialized consultant firm) according with the terms and conditions established by the Board.

The external auditor should independently report to the Board to confirm the correctness of the financial statement.



4. THE FUND MANGER

The fund investment portfolio will be managed by a specialized and qualified Fund Manager, which will be selected based on a competitive bidding process. The Terms of Reference for the Fund Manager selection will be prepared by the Executive Director and approved by the Board of Administration and the World Bank.

4.1. OBJECTIVES

As Fund Manager for FREE, the consultant will provide professional structured finance experience and energy efficiency expertise to develop and finance commercially viable energy efficiency investments which can provide sustainable and increasing reductions in green house gas (GHG) emissions in Romania. The Fund Manager will be responsible for the investment aspects of the Fund and is expected to establish a portfolio of projects that allows the Fund to become self-financing within a period of three or a maximum of four years.

4.2. SCOPE OF SERVICES

The services of the fund manager comprise management and operation of the investment aspects of FREE. Key responsibilities of the Fund Manager include:

1. Prepare a business plan for the Fund, including the development of a detailed investment policy which shall be approved by the Board, a marketing plan, and a plan to work together with local institutions/partners in order to strengthen initial deal flow and ensure that the Fund Manager is aware of the best investment opportunities. The business plan will be updated annually.
2. Periodically, report to the Board of Administration as needed concerning the status of the investment portfolio, prospects for future investment, and any other material developments.
3. Identify target investment projects and prepare recommendations for investment:
 - conduct promotional activities and originate new clients/projects
 - screen and evaluate projects
 - perform due diligence to analyze technical, environmental, financial and credit risks
 - determine the structure of specific investments, including the size of the investment, the use of funds, the nature of the interest to be taken by the Fund
 - prepare financing terms and transaction packages [a list of the proposed documentation should be included in the technical proposal]
 - make recommendations on potential investments to the Investment Committee;
 - work with the Investment Committee to refine specific transactions, as appropriate.
4. Negotiate and finalize financing contracts and arrange for disbursements to client [FREE is responsible for effecting all disbursements, including to clients of the Fund].
5. Manage the portfolio:
 - Ensure and arrange for payment collection;
 - Monitor the performance of the portfolio and compliance of portfolio companies with financing contracts and take remedial action if necessary to deal with problems that arise;
 - Report quarterly on portfolio performance to the Board, including on status of investments made, prospects for future investments, and any other developments material to the Fund;



6. Coordinate and manage consultants and service providers providing the following types of assistance to the Fund Manager in carrying out his/her tasks:
 - Engineering and technical analysis
 - Legal
 - Environmental screening, assessment and monitoring
 - Loan servicing, including collections
 - Accounting
 - Marketing
 - Financial structuring and analysis
7. Support FREE in attracting investors, particularly from the private sector, to co-invest with FREE's energy efficiency opportunities once an investment track record has been established, at least doubling the funding available for energy efficiency investments:
 - Identify potential private sector sources of co-finance for FREE transactions
 - Develop co-financing arrangements
 - Negotiate co-financing fees and other terms
 - Carry out responsibilities to co-financiers under a co-financing agreement, if any.
8. After an initial period of project implementation of about three years review portfolio performance and develop a strategy for the remaining years of the project, including development of new products, new clients in economic sectors not yet covered and other diversification potential.

4.3. ADVISORY SUPPORT AND TRAINING

As indicated above, it is intended that grant financing will be available to finance advisory support to FREE. While the technical assistance funds will be administered by the Executive Director, the Fund Manager will be able to define a part of the allocation for project development during the first three years of the fund, based on the annual business plan. The support is expected to be provided from independent experts and will supplement the work of the Fund Manager, particularly in the area of project development and training of partners of the fund. Some of the funds are expected to be used for training the Fund Manager in structuring energy efficiency deals, possibly through an independent adviser to FREE. Finally, staff of the Fund Manager will need to familiarize themselves with the environmental assessment and monitoring according to World Bank rules which would also be part of FREE's Operational Manual.

A well-connected local presence is important to the success of the Fund. It is therefore a requirement that the Fund Manager collaborates closely with local and regional institutions in order to strengthen the initial deal flow and ensure that the Fund Manager is aware of the best investment opportunities in Romania. It is expected that the Fund Manager will conclude some form of cooperation agreements with these local entities soon after contract signature. The nature of this assistance is at the discretion of the Fund Manager to design, subject to the approval of the Board of Administration. Prospective Fund Managers are therefore encouraged to reflect in their proposals on the best means of working with these institutions.

4.4. STAFFING

It is expected that the Fund Manager will consist of a core team of individuals, comprised of senior and junior professionals. There are no other mandatory requirements for the size or



structure of the Fund Management Team. Firms tendering for the Fund Management contract should make clear how they propose to structure their team, taking maximum advantage of the experience of Romanian experts. The following is a tentative staffing pattern:

(1) Senior Fund Manager:

- to be resident in Romania at least while the Fund is in the active investment phase;
- should have direct investment or venture capital fund management experience covering the full investment cycle from initial identification to exit;
- will be the “public face” of the Fund and will therefore be expected to effectively interact with the local business and financial community;
- should be able to communicate in Romanian and English. It will be important that any deficiencies in language proficiency be addressed through adequate interpretation/translation arrangements; and
- is expected to have at least five years of experience as a fund manager.

(2) Investment Professionals:

- will be based in Romania;
- it is suggested that the team should include at least two investment professionals. These should have direct investment or venture capital experience, although industrial management, investment banking, management, legal, consulting or accounting experience may also be acceptable;
- should be able to speak Romanian and English; and
- are expected to have at least three years of relevant experience.

(3) Energy Efficiency Professional:

It is expected that the team will include at least one professional with at least five years of experience in developing bankable energy efficiency investments.

(4) Support Staff:

Support staff may include interpreters, secretaries, drivers and others.

The technical proposal should indicate which individuals will fill the positions of Senior Fund Manager, Investment Professionals and Energy Efficiency Professional. The proposal should also indicate the organization structure, the key staff committed, the status of discussions with potential staff and the process the firm expects to undertake to finalize its team. It is not necessary to identify specific support staff. References should be provided for key staff as well as for the firm, if applicable, with information on the performance in previous activities.

Finally, the proposal should include a clear indication of the proportion of time which individuals will be able to work for the Fund Management Team and, in the case of the Senior Fund Manager, the proportion of time to be spent in Romania. The Consultant Contract will specify the proportion of time that each of the individuals in the core team is required to spend on the project. If the Fund Manager needs to replace any of these individuals, replacement candidates acceptable to the Bank will have to be provided within a reasonable period of time.

4.5. REPORTS AND TIME SCHEDULE

The Fund Manager will submit the following plans and reports to the Executive Director for submission to the Board and the World Bank.



Type of Report	Time Schedule	Remarks
Business Plan (including marketing plan, TA plan)	Within 2 months of effectiveness of the contract	Including how the business plan will help the Fund achieve self-financing and by when
Portfolio Performance Report	Quarterly	Including the health of the portfolio
Environmental Supervision and Performance Report	Annually	
Midterm report and strategy for the remaining years of the project, including development of new products, new clients in economic sectors not yet covered and other diversification potential	During the third year of Fund operation	

4.6. PERFORMANCE INDICATORS

The performance indicators set below are mainly results-oriented, but in the same time the process of accomplishing those outputs should be taken into consideration due to the fact that it is one of the project assumptions that potential clients are lacking the capacity to generate good investments proposals. As a consequence they should be assisted in the process of identification and preparation of the whole package: meaning feasibility studies of the investments, obtaining needed clearances and authorization for its physical completion, cost-benefit analysis, etc.

In the category of performance indicators should be included:

- Type and number of promotion materials generated and disseminated;
- Type of communication channel used in communication with the market;
- Number of potential clients identified, per total and by regions;
- Number and amount/value of the approved loans;
- The average loan per type of investments, client and in time;
- Number of assisted clients in drafting the investment projects;
- Number of investments projects submitted for financing;
- Number of investment proposals appraised, by type of projects, clients;
- Ratio between approved investments and submitted investments;
- Number of consulting days given to the clients in preparing needed documents to be attached at the package;
- Number of days used for the appraisal by type of investments and their location;
- Investment Portfolio Structure breakdown by type of investments (short-medium term, grace period length), by risk degree, by number of co-financiers involved in financing the investment scheme of the project; by type of beneficiaries (industrial, municipalities, etc.);
- Ratio of the approved/ rejected projects by the Investment Committee;
- Number of concluded financing contracts, by type of investments and type of clients;
- Rate of repayment (commissions, interest rate and installments);
- Delays accumulated by clients, type of investment, reasons of any delay;
- Number of clients for the second loan;
- Types of new financial products recommended and feasible to be provided by FREE on the market.



4.7. TERMS OF ENGAGEMENT

The Fund Manager will enter a five year contract with FREE which will be subject to review and negotiations after three years, and may be extended beyond five years if required, and subject to successful performance. The key factor for extension beyond the third year is the ability of the Fund to earn sufficient income to cover expenses, including fees to the Fund Manager. The contract will be based on the World Bank's standard Consultants' Services contract (Lump Sum Remuneration). For specifics see Annex I.

The Fund Manager will be paid an annual retainer. The fixed fee part will cover the basic operating costs of the Fund Manager. It will be paid in monthly installments and will be guaranteed during the first three years of the contract. The performance-based part will depend on the value of new loans made each quarter and on the repayment performance. In addition, the Fund Manager will receive the deal origination fees directly paid by the Fund's clients. The success fee in the form of a percentage share of the Fund's increase in net asset value will be based on the winning bidder's offer. For specifics see Annex II.

All co-financing agreements with other financiers are subject to review and approval by FREE and the World Bank. Fees realized through co-financing arrangements or for managing non-FREE funds will also constitute income of the Fund Manager. All such income will be disclosed completely to the Board of Administration before entering into such agreements. In case of a conflict of interest, the Fund Manager shall seek prior written approval of FREE before proceeding with evaluating an investment proposal.



5. FREE MARKET AND CLIENTS

5.1. INVESTMENT POLICY

FREE investment policy is built on the findings of a comprehensive preliminary research of the EE market developed during the preparation of REEF project. There is no competition for clients, as demand for corporate loan is much bigger than the supply. The corporate lending market on energy efficiency investments is lacking. Those few companies that have carried out energy efficiency investments used almost all their own internal funds. Available lending on the commercial baking sector is channeled into short and medium term working capital loans, and most of time over-collateralized, and unaffordable for the emerging industrial companies. The absence of the appropriate funding mechanism is also linked with the lack of expertise in identifying and developing bankable viable projects. FREE investment policy will fill the financial gap on the market, and gradually leverage the expansion of the available co-financing resources.

On the other hand, FREE investment policy is in line with the Governmental National Policy on Energy Efficiency, and in compliance with the enacted energy efficiency law no 199/2000. As is stated in the mentioned above law the national policy on EE is based on the following pillars: reducing barriers to promote EE, promoting financing mechanisms, promoting cooperation between producers, equipment suppliers, energy services providers and the end users companies. The new approved law on energy efficiency could also be seen as a market opportunity for FREE itself, taking into account that energy users are encouraged and even obliged to replace obsolete equipment and high energy intensive technologies with new equipment and lower energy manufacturing technologies.

Despite the large potential of the market, only few of those needed energy efficiency investments are undertaken for the time being, and FREE investment operations developed within the above opportunities framework could be associated with some major risks. These risks could be managed and minimized by FREE through: hiring a professional Fund Manager, providing technical assistance for bankable deal flow creation and project development based on in-house or outsourced expertise, developing close relationship with TA providers, ESCOs, equipment suppliers, leasing companies; implementing proper monitoring and evaluation system of the borrowers during the loan contract duration in order to provide early warning signals to FREE and its financiers.

Taking into account the identified market opportunities as well as the associated risks in its initial phase of development FREE investment policy will be focused on financing under the restriction of the Romanian economic environment investment projects in commercially viable companies. The demonstration effect is becoming crucial in this stage in order to leverage additional parallel or direct co-financing arrangements so the Fund shall promote prudent management of its investment portfolio. In the later phases, when more experience will be acquired at FREE and its Fund Manager level, the Fund is expected to expand its portfolio to other sectors such as: heating infrastructure or large public buildings sector.

According to its investment policy FREE funds can be used to finance:

- Purchase of equipment, machines and tools for the energy efficiency investments. The main energy efficiency equipment are: burners and boilers, variable speed drives, condensers for power factor improvement, compressors, controls, steam traps, etc. It is acknowledged that the above listing should be used as indicative and far from being exhaustive;
- Technical assistance and advise for proper installment of the purchased equipment;



- Procurement of the know –how (advanced technologies, etc)
- Training of staff in using properly the equipment and new technologies;
- Equipment Leasing
- Transportation and logistic support
- Rehabilitation of the buildings for developing those activities
- Rehabilitation of other used facilities.

In respect of its investment policy FREE funds cannot be used to finance:

- Rental for buildings and equipment;
- Purchase of land and buildings for production and administrative offices;
- Purchase of transportation means which are not directly linked with the technological production flow;
- Salaries for own staff of the borrower;
- Raw materials (fuels, etc.)

Note: Some industries should be excluded (e.g. tobacco industry)

5.2. ELIGIBLE CLIENTS AND PROJECTS

FREE is a market-oriented financial mechanism whose clients are those companies willing to implement investments measures in order to save energy and improve the quality of the environment. The energy savings is directly mirrored into the reducing of the energy bills of the client-company.

Due to demand-driven characteristics, and its purely commercial feature FREE addresses its services to the industrial and commercial sector without establishing targeted clients. Nevertheless, it is assumed that in the first phases of its functioning FREE clients will be restructuring companies from the industrial sector. In the latter phase when it is assumed that the Fund Manager will be able to expand the investment portfolio and enlarge its assistance operations it is presumed that the public buildings (such as hotels and hospitality companies, business centers, etc.) and even municipalities would apply for financing their investments.

Due to the fact that in the early stage of its operation the Fund will focus on smaller projects in terms of requested amount of budget, and technically simpler projects, it is expected that small and medium-sized viable companies under restructuring and adjustment measures will apply for financing their energy efficiency investments.

On the other hand, larger and more complex and innovative investment projects will be approached in the next stage of FREE development (after at least 2-3 years of operation). These more complex projects will require greater amounts of loans and longer payback time periods. In the developed stage of FREE operation, including the Fund Manager will be able to generate co-financing arrangements, which will become crucial in order to spread as much as possible high non-performance risks.

5.3. FINANCIAL PRODUCTS

As per the Ordinance 124/2001 for setting up FREE, this Fund will provide loans for the energy efficiency investment projects. This will be done based on the lending scheme agreed with the borrowers under the conditionality of meeting the eligibility and selection criteria. Loans will be made on the commercial basis to creditworthy clients, whose timely basis repayments (principal, interest and commissions) will revolve the Fund, and will allow additional and new loans.



5.4. OTHER PRODUCTS

Technical Assistance in projects development

Leverage leasing arrangements

At a later stage: equity (different types); guarantee fund services

5.5. LENDING TERMS

FREE does not subsidize loans for any borrowers. FREE will offer loans with floating interest rates plus commission in order to price its financial product according to the market level and also to make it attractive for commercial co-financiers to invest in projects.

Co-financiers from the commercial banking sector (especially private sector) are expected to share in the transaction costs of those loans and deals in which they will decide to enter. Co-financiers will be also responsible to manage their own funds or to conclude separate management contracts with the Fund Manager.

A commitment of 20% to 40% (to be decided in accordance with the type of investment) of the loan will be requested from the borrower as its own contribution to the investment project showing that its risk is also involved. This commitment will be agreed in the financing contract and it should be up-front contribution to the approved project.

Initially, the Fund is designed as a revolving debt fund. The target projects and investment guidelines of the Fund can be summarized as follows. In the first phase, the Fund will focus primarily on financing projects within restructured/ privatized industries which can establish basic creditworthiness and have no major environmental problems. Eligible projects would be limited to those meeting the following criteria:

- The project must have a relatively short payback time (generally under three to four years);
- The investment be in the range of US\$ 50,000 to \$ 800,000 (to minimize transaction costs on the low side, and to limit exposure from a limited number of projects on the high side);
- At least 50% of each project's benefits have to come from energy savings (e.g., process or capacity improvements that have ancillary energy savings benefits are not eligible);
- The technology must be well proven in the proposed application to avoid technological risk.

The main energy efficiency technologies that meet these criteria are burners and boilers, variable speed drives, condensers for power factor improvement, compressors, controls, steam traps.

The Fund is expected to provide the following financial products for energy efficiency projects in Romania:

- Cash-flow based term loans made directly to end users (either based upon cash flow of the project plus the creditworthiness of the end user or on projected cash flow alone);
- Cash flow-based loans made to energy service companies ("ESCOs") on a project-by-project basis;
- "Performance" loans where FREE partners with a supplier consortium and offers a total project package including engineering, equipment and financing.

In addition to debt financing, project financial support may include equipment leasing, payment for services, and/or various combinations of these. Loans will be made in US dollars or in dollar denominated local currency; repayments would also be made in dollar denominated local currency.



The Fund is designed to be flexible both in terms of product mix and terms such that the Fund Manager can offer the financial products which the evolving market for commercial project financing demands.

Eventually, FREE may invest equity in carefully selected projects and/or energy service companies.

Furthermore, the Fund Manager will actively develop appropriate new financial products for energy efficiency projects.

FREE's financial transactions would start up slowly in the initial years and would most likely not be sufficient to generate an interest income covering the set up costs of FREE initially. As experience is gained, the number of projects can be increased sufficiently, achieving self-financing of FREE after about three years. Larger and more complex and innovative investment projects, both in terms of financial products and participation in the upside of energy efficiency investments will be approached in the later stage of Fund operations (after at least 2-3 years of operation). In that stage it is expected that the Fund Manager will be able to attract co-financiers, if necessary by using GEF financing to take subordinated positions, pay a small commitment fee, offer guarantees, etc.. It is expected that the range of clients will also be expanded, as the municipal services and the buildings sector will become more creditworthy and the fund manager will be able to structure financing products and packages in innovative ways to target new clients. Active partnerships with commercial financing institutions, leasing companies and energy service companies (ESCOs) will be strongly encouraged.

5.6. THE PROJECT CYCLE

The investment projects will be selected by the Fund Manager and will meet the eligibility and selection criteria agreed between FREE and IBRD/GEF, ensuring that investments are economically viable, financially bankable and technically, managerially and environmentally sound.

Step 1: Projects preparation

The project is prepared by the client in accordance with the Operational Manual requirements. During the preparation stage the client can receive needed technical assistance and training, upon request.

Step 2: Project submission to the Fund Manager.

The project proposals will be submitted to the Fund Manager for consideration and review in any working day of the year. The transmission will be done through mail and/or email with the condition to include all needed documentation within the package. The project proposal will be submitted to the Fund Manager in two copies, one in Romanian and one in English. One copy of it shall be kept at the applicant.

The Fund Manager screens the project package received, and checks if the eligibility criteria are met. If the documentation is complete and eligibility criteria met, the project application is registered in the database and sent for the review. If the package is not complete, and/or the eligibility criteria are not met the client will be notified within 15 days from the submission date.



The client has the right to revise the project in accordance with the observations made by the Fund Manager, and the revised project could be re-submitted for the review.

Step 3: Project Review

After verifying if the project meets the eligibility criteria, the Fund Manager develops the project review based on the selection criteria set in the Operational Manual. It will be Fund Manager responsibility to review and up date the criteria in accordance with the EE market development. FREE board shall review and if case be approve Fund Manager proposals. The IBRD prior approval is needed in order to modify the eligibility and the selection criteria.

Project Review and Selection Criteria

Review and Selection Criteria	Sub-criteria for the project review	Marks	Weight	Obs
Technical Consistency	Adequacy of the equipment, and industrial technologies to be purchased			
	Duration of the equipment installment			
	Reduction in energy use			
	Estimation of the GHG reduction			
Economic Viability	The backward area development (creation of the new services) Encourage transfer from high-tariff to low-tariff energy customers; Use reasonable efforts to replace the investment in the project on commercially reasonable terms, taking into account liquidity, market constraints Create new demand and new markets niches (for instance in the case when utilities are replenished; Job creation, if the case; Sales arrangements after completion the investment.			
Financial Soundness	Eligible costs and Budget lines; Means of finance (up front own cash contribution, co-financing arrangements); Cash Flow projection and estimated profitability; Ratio Analysis; Break-even Analysis; Costs Savings; Financial stability of the company. Credit enhancement: reserve funds, secured accounts, etc.			
Client Managerial Capacity	Credit profile and loan record of the borrower; The reputation of the borrower within the industry/sector/market; History of payment in the case of previous loans;			



	Qualifications and competence of its key staff linked with the project completion; Organizational set-up (limited company, joint stock, public institutions, dwellings owners associations, etc.).			
Risks and Creditworthiness Analysis	Potential risks should be investigated wherever feasible/ identifiable; Commitment to bring its own financial capital in the project; Mitigation measures should be also identified;			
Environmental Soundness and Benefits	Check the environmental approval issued by the Romanian authorities; Verify if the feasibility study was cleared by the LEPA or by NEPA; Evidence that the company has valid operating or construction permits and no environmental liabilities in terms of pollution fees and fines; Statement on owned assumed responsibility.			

Step 4. Structure Financing

If the review proves that the project meets the criteria and is technically robust and bankable the Fund Manager and its client agree on the next actions to be taken for structuring financing. The Fund Manager will make due diligence to identifying any co-financing alternatives in accordance with the type of investment, size of the requested loan and the risks assessment results.

Step 5. Prepare Term Sheet and Acceptance Letter

Assuming that Fund Manager has structured the transaction, the next step is to prepare a term sheet outlining the key terms of the loan. The term sheet would be delivered to the client (borrower) for acceptance. Its signature will be required in this stage on the Acceptance Letter. The Acceptance Letter will stipulate that the loan is still subject to the Investment Committee review and BoA approval.

Step 6. Submission to the Investment Committee (IC)

Once the transaction is structured and the client signed the Acceptance Letter the Fund Manager is preparing a summary and analysis of the recommended transaction, which are sent to the Investment Committee for consideration and approval. The whole project documentation is attached and submitted to IC. The IC has the right to reject projects which are not complete or in accordance with the investment principles. The rejection of three consecutive projects will determine a meeting under the supervision of WB for the attentioning of the FM. Repeated attentioning could give the right of FREE to cancel the FM contract responsibility to consider all projects presented by the Fund Manager, and could make one of the following decisions: to recommend it for the approval to the BoA, to be rejected for the improvement by the FM, or Client, and to approve it if the amount of loan is below the threshold.

The following next steps in the transaction final approval are made at the level of FREE based on the investment recommendations of the Fund Manager. Special procedures, which deviate from the above will likely need to be developed for loans below a minimum level due to



operational costs created by this approval process. For small transactions, a highly standardized loan product may be necessary in order to minimize costs.

Step 7: Project Approval by the BoA

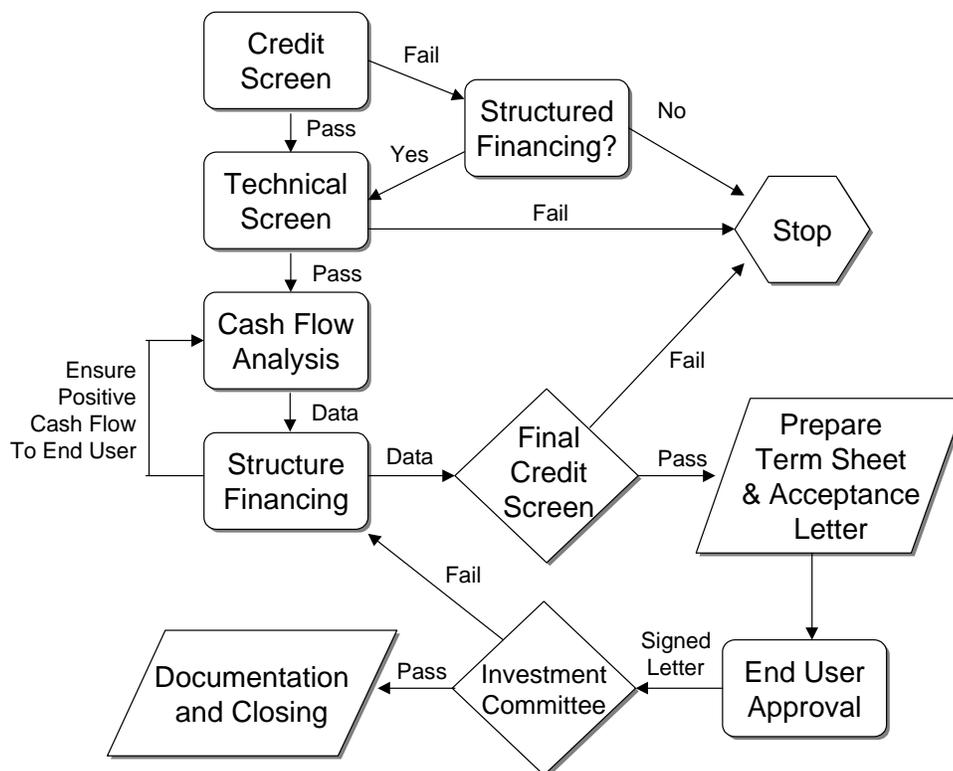
Assuming that all these conditions are satisfied, there is no further reason to return to the Investment Committee unless there has been a material adverse change in the financial conditions of the client or the deal has changed in some substantive way.

Step 8: Loan Contract Concluding

Step 9: Project Completion falls under the client's responsibility.

Step 10: Closing the loan contract

The transaction process flowchart is detailed below





5.7. SELECTION CRITERIA

Tentative methodology for project appraisal by the Fund Manager

Step 1: Preliminary screening

- To check the eligibility of the client/ applicant
- If found being eligible to be registered in the Loan Application Directory
- Examination of the included and attached documents (clearances from the Environment Protection Agency, needed authorizations from the City Hall or other governmental entities, copies of the balance sheets for the last three consequent years, guarantees letters and other needed evidence)

Step 2: Technical Appraisal

- Reduction in energy use
- Estimation of the GHG reduction (could be feasible)

Step 3: Economic Soundness includes:

- The backward area developments (creation of the new services)
- Encourage movement/transfer from high-tariff to low-tariff energy customers
- Create new demand and new markets niches
- Job creation, if the case
- Sales arrangements after completion the investment

Step 4: Financial Appraisal includes:

- Budget costs lines
- Means of finance (up front own cash contribution, co-financing arrangements)
- Cash Flow projection and estimated profitability
- Ratio Analysis
- Break-even Analysis
- Costs Savings

Step 5: Borrowers Appraisal

- Credit profile and loan record of the borrower
- History of payment in the case of previous loans
- Managerial Capacity to complete successfully the project (in house qualifications, staff experience, key staff members)
- Organizational set-up (limited company, joint stock, public institutions, dwellings owners associations, etc.)

Step 6: Risk Analysis including Creditworthiness analysis

- Potential risks should be investigated wherever feasible/ identifiable
- Mitigation measures should be also taken

Step 7: Environmental Impact Appraisal

- Environmental benefits
- Needed environmental clearances
- Environmental procedures



5.8. SUSTAINABILITY AND RISKS

5.8.1. SUSTAINABILITY

The project promotes the market-based, commercial funding of energy efficiency projects. The development of a sound portfolio of projects which are financially and economically viable and presented by creditworthy borrowers will be ensured by entrusting lending decisions to a professional management which will adhere to a set of preset conditions and whose income will be determined to a large extent by the performance of the Fund, i.e., its profitability.

While the Fund would be able to significantly increase funding for energy efficiency investments in Romania over the baseline on the basis of the GEF capitalization alone, the ultimate success of the Fund depends on being able to attract commercial co-financing which will only be the case with a string of early successful deals and with the perception of a commercially focused operation. The Fund will thus foster, through both demonstration effects and explicit partnerships, expanded investments by other market players, such as commercial banks or energy service companies.

The sustainability of energy efficiency financing will be enhanced further by the Fund engaging a range of partners and allies in commercially focused project development and other project implementation components. These partners will have received training in combining technical and financial skills and will have had opportunities to use them during project implementation. It is expected that they would continue to offer those commercial skills after project implementation.

The exit strategy foresees that GEF funds (minus any contingent grant and the TA component) will be pulled out of the Fund at a time when the success of commercial energy efficiency financing has been demonstrated. The fund's loan portfolio could be sold by soliciting bids and thus dissolving FREE in a transparent, competition-based manner. Alternatively, interested parties could take over the commercial aspects of the fund, again under a competitive mechanism. The GEF funds will then be used for other GHG mitigation projects in Romania that are in line with the GEF global objectives, as described in the implementation agreement.

5.8.2. RISK ANALYSIS AND MITIGATION

Commercial financing of energy efficiency projects in Romania is fraught with risks. The proposed project recognizes the existence of those risks and is developing mechanisms to defray them to the extent possible.

The most important general risk mitigation tool is the flexibility of the financing mechanism. The Fund Manager needs to be able to change and adapt financial products, targeted clients, partners and allies to changing circumstances for the Fund to become profitable. The implementation agreement between World Bank and FREE and the management contract between FREE and the Fund Manager will specify the arrangements under which key features of the Fund's operation can be changed. A monitoring process with lead indicators will be put in place to allow for quick management decisions.

Key risks include:

- **Macroeconomic conditions discourage energy efficiency investments:** The macroeconomic situation is still relatively unsettled in Romania. Recent indicators point to improvements with industrial activity picking up, particularly in the export sector. It is



expected that the situation will continue to improve; if, however, the economy falls back into a slump, demand for financing of energy efficiency projects would be repressed. In that case, the Fund Manager would need to identify other targets for investment financing which are less vulnerable to general economic performance such as municipal services and buildings. If this strategy also fails, the Fund Manager and FREE management would need to reduce overhead costs and gear towards a smaller operation.

- **Energy consumers are reluctant to borrow for energy efficiency investments.** The project is designed to mitigate this risk by collaborating with partners in project identification and development who already have established connections with potential Fund clients. Those partners will be trained, particularly in the packaging of bankable projects, under the GEF TA component, and they will receive an incentive in form of a finder's fee for projects accepted for financing. In addition, the Fund Manager will engage in intensive marketing of Fund products, particularly with senior management of targeted clients. One particular reason why borrowers might be reluctant might be that energy price signals don't encourage end user interest in implementing energy efficiency measures. Energy prices in Romania are increasingly market-based. Should they fall in real terms, prospects for quick-payback projects would be diminished. In that case, the Fund Manager would need to concentrate project development in those technologies and sectors which are less affected by energy price reductions. In fact, the highly favorable financial returns of many current energy efficiency investments suggests that some downside price risk can still be absorbed.
- **Projected energy savings and improved cash flows do not materialize:** Only proven energy saving technologies, which have delivered sound energy savings in a variety of circumstances internationally, will be eligible for financing. Due to the lack of experience with the implementation of energy saving technologies in Romania, feasibility studies may overstate energy savings, actual costs may differ, or contractors may be inexperienced. Any of those factors could impact negatively on actual savings and financial results. The project will employ a range of measures to ensure that ensuing risks are minimized: Collaboration with qualified engineering and financial consultants during project development, comparison of saving predictions against benchmarks during project due diligence, and intensive monitoring of the first implemented projects to ensure that funds were spent on the measures identified, measures were implemented properly and devices operated as designed.
- **FREE clients do not repay loans:** Communism has created a non-payment culture which is still not completely abolished. The full collection of interest payments and principal repayments is, however, of paramount importance for the success of the Fund. Strict creditworthiness criteria will be established, and the Fund Manager will thoroughly screen the credit standing of potential clients, and collaborate with partners in the monitoring of clients and the collection of payments. Innovative collateralization methods also are being explored.
- **Technically trained specialists have difficulty adapting to a truly commercial environment:** During the past ten years, many professionals have been trained in technical energy efficiency skills. Their financial skills, particularly in the packaging of bankable projects, have however been neglected. For the sustainability of energy efficiency financing, professionals need to combine those skills. The Fund Manager may want to choose those organizations as partners in project development that have already demonstrated that they can successfully and sustainably provide services to clients in the industrial and other sectors, for example some of the business advisory centers, or some of the sectoral research institutes.
- **An effective Fund Manager cannot be secured and retained:** The success of the proposed project hinges on the identification and performance of a professional Fund management team. During project preparation, extensive consultations with financial experts have taken



place to understand the requirements of the Fund Management position and the ability of the market to provide good candidates for the position. The recruitment of the Fund Manager according to World Bank procurement rules has started in December 2001 and is expected to be finalized by the time the project becomes effective or soon thereafter. Twenty eight firms have expressed interest to be short-listed and about a half of these firms are operating in Romania. A competitive remuneration package with incentives for successful performance and credible assurances that government interference in financing decisions will be minimized are two important factors in being able to attract and retain professional staff.

- **FREE overhead costs surpass critical limits:** During project preparation, all cost estimates have been validated extensively. The Fund has been designed to attract professionals, both for administration and fund management. The collaboration with experienced partners, e.g., from the banking sector, would contribute to keeping FREE overhead costs under control. Also, the costs of FREE's administration will be capped, as per the project implementation agreement between the Bank and FREE.
- **Failure of early projects does not demonstrate viability of energy efficiency financing:** The Fund needs to be able to establish a track record of successfully implemented projects from the very beginning. Only then will the Fund Manager be able to attract further clients and commercial co-financing. In order to achieve these early successes, creditworthy borrowers and projects with high success rates need to be carefully selected, implemented and monitored. Tying the remuneration of the Fund Manager to the successful performance of early projects would further reduce the risk of early failures.
- **Commercial co-financing is not forthcoming:** The Fund is designed to start up with GEF seed capital. With strict cost control and some initial covering of FREE operating costs by GEF TA, the Fund could become self-financing even without additional co-financing. It will however be difficult to have a significant impact on creating sustainable financing for energy efficiency investments unless substantial co-financing is forthcoming. To be able to attract this co-financing, the Fund Manager will need to signal the Fund's commercial orientation, and to showcase a number of initial successful projects. The GEF TA component will support putting those first projects together and to carry out their careful monitoring and evaluation and the dissemination of experiences. The successful solicitation of co-financing would provide additional income to the Fund Manager. There is however a possible spillover of macro-economic risks: To the extent that returns from energy efficiency projects are lower than returns from other investments, co-financiers might choose not to participate in FREE, reflecting the conditions of the financial markets.



6. ENVIRONMENTAL SCREENING, ASSESSMENT AND MONITORING

6.1. GENERAL

All projects financed by FREE will be carried out in an environmentally and socially responsible manner, and in accordance with the legal and regulatory framework in force in Romania, the established policies and procedures of the World Bank, and the provisions of this Manual. Projects to be financed by FREE are expected to be environmentally beneficial, reducing energy consumption and thereby emissions, not only of greenhouse gases (GHG), but more importantly of air pollutants, over the status quo. None of the projects to be financed exclusively by FREE is expected to have any large scale, significant and/or irreversible impacts.

The review of all individual investments of FREE is the responsibility of the Fund Manager. Within this review, he/she is required to assess potential environmental and social risks, impacts and opportunities associated with their operations, to ensure that environmental reviews, audits or assessments, are conducted where appropriate, and to require that the environmental and social standards of the World Bank are satisfied. During the duration of the loan contract until the loan is completely repaid, the Fund Manager will carry out periodic monitoring and evaluation of the environmental performance of the client, particularly prior to the disbursement of tranches or when considering any extension of disbursement or repayment schedule. The Fund Manager will report to FREE any non-compliance with environmental regulations and stipulated clauses in the loan contract. At all times, the Fund Manager will avoid any interference with the responsibilities of Romanian governmental controlling bodies.

The environmental screening and assessment procedures will apply to all subprojects financed by FREE over the 8 year period of the project, and not just the ones financed through the initial capital for the Fund provided by GEF. The Fund Manager will integrate the following environmental procedures into the credit/investment decision-making and monitoring procedures and adhere to the following basic requirements. As part of the appraisal of individual sub-projects or investments, the Fund Manager will apply the exclusion list set forth in Annex B (Prohibited Activities), consider environmental and social risks associated with the deal, according to the environmental and social screening and review criteria set forth in Annex C, and classify it into one of the following three categories based on their potential environmental and social impact and resulting necessary level of analysis:

Category A: Projects that may result in diverse and significant adverse environmental impacts (see definition in Annex B). For such a project, the applicant must prepare an Environmental Assessment (EA), including an Environmental Impact Assessment (EIA) and an Environmental Management Plan (EMP)

Category B: Projects that may have moderate, specific environmental impacts for which mitigating measures can be designed. Normally, the preparation of a simplified EMP is the only requirement.

Category C: Projects that have no or only negligible anticipated direct or indirect environmental impact. No EA action is required by the applicant.



6.2. PROCEDURES FOR ENVIRONMENTAL SCREENING, REVIEW, DECISION AND MONITORING

- (a) Each investment project proposal must be submitted to the Fund Manager with a full application package, including a completed environmental questionnaire (see Annex C) and details of any documentation requirements needed for environmental approval by the Romanian authorities.
- (b) The environmental authorizations for a project must be cleared by the National Agency for Environment Protection (NEPA), through one of its county branches (LEPAs). The clearance ensures the compliance of the design and operations with the Romanian environmental laws, standard requirements, and specific norms. The documentation is comprised of a feasibility study cleared by the LEPA or by NEPA as per law requests, and of the required permits, licenses or agreements from the Local Environmental Protection Agency (LEPA) from the county where the premises are located or the new investment will be made.
- (c) The applicant will further provide evidence that the company has valid operating or construction permits and no environmental liabilities in terms of pollution fees and fines.
- (d) In case the applicant does not have a valid authorization from the national or local EPA, he has to provide evidence that the company has applied for the required authorizations, and which steps have been made so far in the authorization process. In accordance with the legal provisions an economic player has the permission to further operate his/her activity until the finalization of the authorization process, if a Corrective Action Plan (Conformity Plan) has been agreed with LEPA/NEPA.
- (e) The applicant will provide a “statement on owned assumed responsibility” of the authorized person from the company/client (the owner, the managing director, or another person in charge). This person certifies through his/her signature that all information provided is complete and accurate.
- (f) The Fund Manager reviews the application, requests additional information from the client, if necessary, and assigns the environmental category. The Fund Manager can outsource the review to specialists. In most cases, those with category C, no additional EA actions are required. For most category B projects, the client needs to submit an EMP or Conformity Plan (see Annex D), approved by the Fund Manager. For category A projects, an EIA needs to be completed which has to be reviewed and approved by the World Bank before the financing package can be submitted to the Investment Committee. In addition, for projects in category A and B, the applicant must consult groups affected by the project, and if appropriate, take their views into account in both environmental documentation and design of the project. A written description of the consultation must be presented as part of the environmental documentation.
- (g) In his project due diligence, the Fund Manager will assess whether and how potential environmental risks of the project will affect the deal and decide whether the financing approval should be conditioned upon certain additional clauses in the loan contract, increase of the collateral, etc.
- (h) The Fund Manager shall make reasonable efforts to assist any client who has received financing from FREE in complying or continuing to comply with all applicable Romanian legal requirements, and with IBRD environmental requirements as set forth in these guidelines. As promptly as possible after becoming aware of any activity which does not comply with the applicable Romanian requirements, or with the IBRD environmental requirements, the Fund Manager shall: a) undertake reasonable efforts to cause such project to implement a Corrective Action Plan, which shall entail the development and implementation of a remediation plan to enable the investment to carry out its business in accordance with IBRD environmental requirements and with



Romanian requirements; b) use reasonable efforts to replace the investment in the project on commercially reasonable terms, taking into account liquidity, market constraints and fiduciary responsibilities, if any project does not implement a Corrective Action Plan as provided in (a) above, within a reasonable time; and c) report any continuing non-compliance to FREE's Executive Director for reporting to the World Bank.

- (i) During the whole duration of the loan contract until the loan is completely repaid the Fund Manager will carry out periodic monitoring and evaluation of the environmental performances of the client-company, particularly prior to the disbursement of tranches or when considering any extension of disbursement or repayment schedule. When a Conformity Plan has been negotiated and agreed with LEPA, the Fund Manager monitors the completion of the Conformity Plan. Indications that compliance is not being met will lead to consultation with LEPA that will pursue the necessary action. The Fund Manager will report to FREE any non-compliance with environmental regulations and stipulated clauses in the loan contract, to be reported to the Bank.

6.3. ENVIRONMENTAL SUPERVISION AND PERFORMANCE REPORT

The Fund Manager will submit to FREE's Board of Administration and to the IBRD periodic reports on the implementation of its environmental procedures and on the environmental performance of its portfolio, as promptly as practical, but in no event more than ninety (90) days after the close of each fiscal year. The Environmental Supervision and Performance Report shall include the following:

- (a) The results of the Fund Manager's screening and review procedures, and
- (b) A description of any investment not currently in compliance with environmental and social requirements as per its corrective action plan and of the actions the Fund Manager has taken or intends to take to correct the situation.

6.4. ENVIRONMENTAL TRAINING

Within 12 months of Grant Effectiveness, the Fund Manager shall have had at least one of its employees attend an approved environmental training event, though this requirement may be waived if, in the judgment of the IBRD, the Fund Manager's portfolio or its demonstrated environmental management capacity justifies such a waiver. If for any reason, trained environmental staff leaves the Fund Manager, then new Fund Manager Employees must attend the next approved environmental training. All costs associated with attendance of the environmental training are the Fund Manager's responsibility, though FREE can make provisions to assist the Fund Manager with some of the costs borne by participating in these events if it is deemed justified.

**Annex A: Environmental Authorizations and Operating Licenses**

Applicable Law:	Law no. 137 of 1995 on environmental protection, and order no 125 of 1996 issued by the Waters and Environmental Protection Ministry
Issuing Authority:	Local Agencies of Environmental Protection of the county the premises are located.
Term it has to be applied for:	The permit may be applied for after all other permits/authorizations required under the law were obtained but in any event before commencing construction of the Premises.
Documents to be filled:	<ul style="list-style-type: none">(i) Description of the project and of the activities.(ii) Stage of compliance with other conditions imposed by the relevant authority.(iii) Prove the request was made public either by posting in the area of the new Premises, publication in newspapers, presentation on the TV and radio channels, written communications sent to associations and individuals to whom it may concern.(iv) Other documents regarding the Premises (this is usually possible for an already existing objective).
Procedure:	<p>The relevant authority analyzes the activity to be carried out and has following possibilities:</p> <ul style="list-style-type: none">i) The authority issues the authorization (Acord de mediu) based on the verification of documents presented;ii) The relevant authority decides an environmental assessment is necessary. In such a case it shall give the Client a list of question to be answered by such verification together with the list of all the other required permits/authorizations. After the verification, a report is presented to the relevant authority, which shall decide whether the authorization shall be conditioned upon certain performances.iii) In case the Client accepts such conditions it shall file with the relevant authority: (a) the final report on the environmental verification; (b) the environmental permit and the rest of the required permits/authorizations; (c) presentation and instructions on how to operate the installations for minimizing pollution; and (d) the final list with conditions to be fulfilled for the issuing <p>In case the relevant authority decides to issue the permit the Client shall file (a) a technical memorandum describing the Premises; (b) other permits/authorizations as requested; and (d) a report analyzing the Premise's impact on the environment.</p>
Term of issuance:	Within thirty (30) days from the date the Agency of Environmental Protection reached a decision.
Validity:	Maximum five (5) years.



Annex B: Definitions (Prohibited Activities, Category A Projects)

"Prohibited Activities" means:

- Large-scale mining, oil and gas exploration or development and supporting services, if such services are directly related to exploration or development.
- Speculative real estate investing or trading.
- Production or activities involving harmful or exploitative forms of forced labor or harmful child labor.
- Production or trade in a product or activity that is illegal under the laws of Local government or international conventions and agreements.
- Production or trade in weapons and munitions.
- Production or trade in alcoholic beverages (excluding beer and wine).
- Production or trade in tobacco.
- Gambling, casinos and equivalent enterprises.
- Trade in wildlife or wildlife products regulated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Production or trade in radioactive materials.
- Production or trade in unbounded asbestos fibers.
- Commercial logging operations or the purchase of logging equipment for use in primary tropical moist forest.
- Production or trade in products containing PCBs.
- Production or trade in pharmaceuticals subject to international phase-outs or bans.
- Production or trade in pesticides/herbicides subject to international phase-out or bans.
- Production or trade in ozone depleting substances subject to international phase-out.
- Drift net fishing in the marine environment using nets in excess of 2.5 kilometers in length.

"Category A Project" means a project which is likely to have significant adverse environmental impacts that are sensitive, diverse or unprecedented, examples of which are the following:

- Projects that include the manufacture, use or disposal of environmentally significant quantities of pest control products;
- Manufacture, transportation and use of hazardous and/or toxic materials;
- Domestic and hazardous waste disposal operations;
- Projects which pose serious occupational or health risks;
- Projects with large resettlement components and all projects with potentially major impacts on human populations;
- Projects affecting indigenous or tribal populations.



Annex C: Questionnaire for Environmental Screening

1. Description of the Company

- Short history of the company
- Legal form of the company
- Ownership structure
- Nature of its business (range of products and services)
- Industry sector
- Name of person who represents the company in legal relationships with third parties
- Number of staff
- Does the company have the environmental authorization already issued, when, date of validity

2. Project Description

Describe briefly the nature of the proposed project and production operations. The description should include, but not be limited to:

- Nature of the project: new Greenfield facility, rehabilitation of an existing site, expansion of production capacity etc.
- Process flow from the receipt/extraction/transport/storage of raw materials, processing/storage and delivery of final products (including any byproducts)

Include:

- (a) production capacity for products and any byproducts
- (b) brief description of the major processing steps and major pieces of process equipment to be used
- (c) energy requirements and sources of energy (fuel use for heat and power)
- (d) water requirements and sources
- (e) any infrastructure which may be included (pipelines for water/sewage/gas etc., access roads, transmission lines, worker housing etc.)
- (f) nature and amount of any hazardous materials (poisonous, flammable, explosive, radioactive) to be used as raw materials, in the production scheme, or produced as products/byproducts. Detail the manner in which they will be stored, packaged and/or transported.

3. Baseline Conditions

Describe the human, biological and physical environmental conditions at the project site(s). The description should include, but not be limited to:

- Existing society economic conditions: nearby cities, towns, villages, who lives there, how many people, what is the current nature of their economic activity (agriculture, industries, commerce, etc.), what are the current land use patterns
- Any areas or sites of unique ecological value (national parks, protected preserves, wetlands, rare or endangered plants or animals) or are formally protected by law
- Local water resources, in particular if any surface waters (rivers, lakes, seas etc.) borders on or traverse through an international boundary. Describe water use patterns for surface and underground waters for agriculture, human consumption, industry and commerce.
- Current levels of air and water pollution compared to standard values as defined by Romanian regulations
- If appropriate, some general information regarding weather patterns, wind circulation, topography (hills, flatlands etc.), seismic stability, geology etc.
- (including noise), and a comparison to permitted discharge levels under regulations. Describe any special equipment or procedures that would be used to insure air emissions do not exceed standards-Are these discharges likely to migrate and impact If appropriate



(rehabilitation or expansion of operations at an existing site), are there any outstanding environmental liabilities (e.g. unpaid fees or fines) associated with the existing operation? Did any interdictions occur in the companies past activities (when, duration, what specific measures were taken, corrective measures taken, who conducted the processes)

4. Environmental Issues

Describe or identify the chief environmental issues associated with both construction and operation aspects of the proposed project. Include both the views of the project sponsor, and official government environmental authorities. Potential areas for discussion include:

- Nature of air pollution discharge(s)-estimates of amounts and types of pollution any areas where people live, or areas of cultural, biological, or economic value
- Nature of water pollution discharge(s)-estimates of amounts and types of pollution, and a comparison to permitted discharge levels under regulations. Describe any special equipment or procedures that would be used to insure water effluent(s) do not exceed standards-Are these discharges likely to affect drinking water, waterborne animal life or natural habitats etc.
- Nature and amount of any solid wastes (including hazardous wastes) and the proposed manner of disposal. Describe any special procedures or site preparations that will be used for environment protection. Any special site construction and operation requirements under regulations should be described
- Indicate if any people or families have to be relocated or compensated for losses in their ability to earn a living
- Will there be use or production of any materials prohibited or severely restricted by international agreement (hazardous materials, chlorofluorocarbons etc.)
- Describe any particular hazards or dangerous conditions for workers, the measures which will be taken to protect their health and safety, and any requirements under current regulations

5. Consultation and Disclosure

- Describe any contacts or discussions about the project which have occurred with people living in the area, local elected officials, environmental groups, academics etc. Were any particular environmental concerns expressed? How will these be incorporated in the project design?

Annex D: Environmental Management Plan

Typical Impacts of and Mitigation Measures for Energy Efficiency Projects

Environmental and Social Components	Impacts	Mitigation Measures
Physical Environment		
Soils	<ul style="list-style-type: none"> Contamination from waste materials, particularly asbestos from old insulation 	Protection of soil surfaces during construction; control and daily cleaning of construction sites; provision of adequate waste disposal services
Water Resources	<ul style="list-style-type: none"> Clogging of drainage works Decline in water quality due to contamination Introduction of hazardous wastes 	Special attention to drainage; proper disposal of oil and other hazardous materials; adequate sanitation and disposal system for waste
Air Quality	<ul style="list-style-type: none"> Dust during construction Emissions of sulfur oxides (SO_x), nitrogen oxides (NO_x), particulate matter, and other air pollutants emissions above national standards Ozone depleting materials 	Dust control by water or other means; filters and other mitigation measures; new insulating materials must not contain ozone depleting materials in compliance with Romania's commitments under the Montreal Protocol
Acoustic Environment	<ul style="list-style-type: none"> Noise disturbance during construction or operation 	Restrict construction to certain hours
Biological Environment		
Natural Habitats	<ul style="list-style-type: none"> Disturbance of natural habitats 	Consideration of alternative alignments or sites
Fauna and Flora	<ul style="list-style-type: none"> Loss or degradation of vegetation Disruption or destruction of wildlife 	Minimize loss of natural vegetation during construction; consideration of alternative sites; various special measures for sensitive species
Social Environment		
Aesthetics and Landscape	<ul style="list-style-type: none"> Debris 	Cleaning-up of construction sites; provision of adequate solid waste disposal systems
Historical/Cultural Sites	<ul style="list-style-type: none"> Degradation of sites Disturbance to structures 	Consideration of alternative sites; special measures to protect buildings and other cultural resources/areas
Human Health	<ul style="list-style-type: none"> Construction accidents 	Preventative measures under national labor legislation
Impacts during site preparation/removal/construction	<ul style="list-style-type: none"> Noise, vibration, turbid water, dust, exhaust gases, other 	Proper mitigation measures according to national legislation

An EMP consists of the following elements:

- (a) Mitigation Action Plan
- (b) Environmental Monitoring Plan
- (c) Implementation Schedule
- (d) Description of Institutional Arrangements for Environmental Management
- (e) Record of Public Consultations



7. MONITORING AND EVALUATION

The purpose of monitoring and evaluation activity is to feed in the decision making process and to assess the progress and the process quality of the project at certain times, assuring in the same time a proper development of the project activities. It is necessary to be sure that implemented activities serve the initial proposed aim, the skills are acquired, the infrastructure work is in place in a proper manner and that the operation and maintenance assure preservation of the already done investment.

Monitoring is a process of routinely gathering of information on all aspects of the project as part of project implementation, done on different levels, over project lifetime. Monitoring also measures the quality and effect of the process and procedures. Information is provided in this way to managers, helping them to assess the progress of the implementation and take timely decisions to ensure progress is maintained according to schedule and compared to intermediate goals. The collected data - both quantitative and qualitative – are used in periodic reports to observe the status and quality of project activities.

Evaluation aims to determine whether project objectives set in terms of expected outputs, effects and impact are being or will be met. Evaluation is performed on specific chosen moments (mid term, interim special studies, at completion, after completion) in order to compare the project achievements at a certain moment with the desired one, and also to assess the impact of the already implemented activities. Evaluation is a combination of quantitative data and qualitative data, with emphasis on the last type of information. The collected data are analytical, descriptive and documentary and used for observing the status and quality of project achievements.

7.1. KEY PERFORMANCE INDICATORS

FREE is managing the GEF / World Bank Energy Efficiency project playing the role of a Project Implementation Unit (PIU) under the guidelines of the BOA.

The financial and accounting software will be customized in order to be able to provide information in accordance with the reporting requirements.

FREE prepares interim quarterly reports, which will include both descriptive notes about the progress made and quantitative summarized updates on its business.

The Executive director will produce a comprehensive Annual Report, submit it to the BoA for the approval and then publish and disseminate it to the stakeholders and a broader audience.

The quarterly reports shall contain information at least about following:

Output indicators:

- Number of projects received by the Fund Manager (by size, type, categories of clients);
- Number of projects appraised by the Fund Manager (by size, type, categories of clients);
- Number of the loans approved (by size, categories of clients, sectors)
- New loans could be separately highlighted;
- Deals under preparation/under appraisal/ submitted to the IC/approved by IC/ submitted to the BOA/ approved-rejected by BOA with comments on the probability of the approval and potential future earning from them;
- Total principal interests and fees received during the quarter;
- Number of projects with first disbursement, if in tranches;



- Number of projects with second disbursement, in trenches;
- Total operating expenses incurred during that quarter with comment on budget allocation issues and verbal explanations for any changes suggested;
- Non-performing loans, comprising of number, size, repayment schedules, type and reasons for non-compliance with the terms of contract.
- Co-financing including actual contributions made to the investment projects and interests indicated the future deals;
- Technical assistance delivered in terms of amount of time spent and nature of activities developed;
- TA provided per development phases of deals;
- Common hurdles faced in practice with suggestions for overcoming them in the future;
- Relevant news indicating factors that could affect energy prices and thus attractiveness of energy savings instruments, and any changes in the business environment that could impact demand for EE projects.

Process indicators:

- Average time for deals preparation (by type of investment, categories, sectors);
- Average time elapsed from the submission (preparation) to approval, by IC,
- Average time elapsed from the submission (preparation) to final approval, by BOA, in the case of projects above the established threshold;
- Average time elapsed from the approval to concluding of the loan contract;
- Average time elapsed from the approval to the first payment, if disbursement by trenches
- Number of projects rejected by the BOA, by reason of rejection?
- Number of projects with delays more than 30-60 days in the repayment of the installments/interest rate/ commission by, with reason for delay /clarified with the client by FM.

The Annual Report shall contain indicators that reflect performances over the year in question and also provide broader information that allows market analysis and trends foreseen. The indicators may be aggregate data or ratios that measure the activity and profitability of FREE.

7.2. BENCHMARKS

The degree in which FREE is able to leverage investment by clients themselves, local financial intermediaries and other commercial sources interested in co-financing is given by following indicators:

- Amount of investment from client itself;
- Amount of loans from other commercial co-financiers;
- Average percentage invested by FREE per type of investments;
- Average percentage invested by FREE in time;
- Loans diversified by size (simple and complex), by industries, and type of activities involved (replacement of equipment, upgrading technologies, etc.

The primary goal of FREE's lending activities is to increase energy saving and mitigation of GHG reduction emissions, which has both local and global benefits. These benefits may be recorded from energy audits. FREE also needs to monitor development of the activities undertaken during the investments, as performance at the level of client. In fact these aspects determine the final goal of FREE

Indicators such as the ones listed below should be developed and recorded:



- Amount of savings in energy use before and resulting from the investment;
- Client energy bill before and after investment completion;
- Return on the investment that the client has achieved using the loan;
- Improvements in Client cash flow (planning and de facto)
- Client commitment to return loan during the payback schedule;

The broader goal may include qualitative and impact indicators in order to measure:

- Increased awareness in traditional banking sector for EE loans;
- Attract co-financing to expand its operation;



8. PROCUREMENT

8.1. GENERAL PROVISIONS

The project includes procurement of goods, works, technical services, and consultants' services. All procurement activities are governed by the rules and procedures set by the World Bank and will be conducted in accordance with the following guidelines:

Goods and Works: *Procurement under the IBRD Loans and IDA Credits*, issued in January 1995, revised January and August 1996, September 1997, and January 1999).

Consulting Services (technical assistance, training, and similar): *Selection and Employment of Consultants by World Bank Borrowers*, issued in January 1997, revised September 1997 and January 1999.

Additionally, the World Bank's Standard Bidding Documents, Request for Proposals and Forms of Contract will be used.

These guidelines are included by reference in the Loan Agreement signed by the Government of Romania (GoR) and the International Bank for Reconstruction and Development (IBRD) and are legally binding on the parties.

The main purpose of these guidelines is to inform all concerned, who carry out projects financed in whole or in part by a loan, credit or grant from IBRD/IDA, about arrangements of procurement of goods and works and related services, and define procedures for selecting, contracting and monitoring consultants required for such projects; these guidelines are also intended as a training tool for project staff.

The guidelines describe all procurement methods and their procedures for all types of projects. This chapter of the Operational Manual describes all procurement methods and their procedures to be used during project implementation as agreed through the Loan Agreement. For a specific activity only those methods and procedures considered appropriate for the project and included as such in this Manual will be applied.

The guidelines referred to above are based on the principles of economy and efficiency in project implementation, opportunity for all eligible bidders to compete, and the importance of transparency. In order to ensure that these principles are respected, the Bank requires the use of competitive procedures, such as international and national competitive bidding, advertisement of consulting opportunities, and even mandates the use of standard bidding documents for this purpose. The guidelines deal in some detail with the procedures to be followed in international competition.

8.2. PROCUREMENT UNDER SUB-PROJECTS

8.2.1. GENERAL

Procurement of goods and services under Sub-projects shall be carried out in accordance with established commercial practices acceptable to the Bank described in paragraph 3.12 of Procurement Guidelines and described in paragraph 3.12 of the Consultants Guidelines.



8.2.2. REVIEW BY THE BANK OF PROCUREMENT DECISIONS

Prior Review: With respect to the first two contracts regardless of the costs thereof and all subsequent contracts above \$1,000,000 dollars, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

Post Review: With respect to each contract not governed by prior review, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

8.3. EMPLOYMENT OF CONSULTANTS FOR THE FREE

8.3.1. GENERAL

Consultants' services shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997 and January 1999 (the Consultant Guidelines) and the following provisions:

8.3.2. QUALITY- AND COST-BASED SELECTION

Except as otherwise provided in 8.3.3. below, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 applicable to quality- and cost-based selection of consultants.

The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for services estimated to cost less than \$ 200,000 equivalent per contract, may comprise entirely of national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

8.3.3. OTHER PROCEDURES FOR THE SELECTION OF CONSULTANTS

Least-cost Selection: Services for Technical Assistance of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

Selection Based on Qualifications: Services of the Project estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

Individual Consultants: Services for tasks that meet the requirements set forth in paragraph 5.01 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.



8.3.4 REVIEW BY THE BANK OF THE SELECTION OF CONSULTANTS

Selection Planning: Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

Prior Review: With respect to each contract for the employment of consulting firms estimated to cost \$50,000 or each contract for the employment of individuals estimated to cost \$20,000, or any single-source selection or assignments of a critical nature as determined by the Bank regardless of their value, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2 (a) and 5 of Appendix 1 to the Consultant Guidelines shall apply.



9. FINANCIAL MANAGEMENT

FREE will establish and will maintain a project financial management system (FMS) in a format acceptable to the Bank and in accordance with WB Financial Management requirements. FREE will be responsible for the project's overall financial management system. All financial management and disbursement procedures for the Project will be centralized at FREE and be in accordance with the relevant Bank guidelines. A more detailed description of the financial management system can be found in FREE Financial Manual.

9.1. STAFFING OF THE ACCOUNTING / FINANCE FUNCTION

The Financial Controller will handle all financial accounting records, ensure that accounting records are kept up to date within the accounting software and will be in charge of the petty cash arrangements. The Financial Controller will be responsible for the planning, budgeting, auditing and reporting aspects, reporting to FREE director. The finance manager will also establish permanent contacts with the accounting department of the MoIR, auditors and the MOF.

The financial team will be completed with a (part-time) accountant, responsible mainly for the primary accounting.

9.2. ACCOUNTING AND INTERNAL CONTROLS

FREE will maintain the project accounts in accordance with the Romanian statutory accounting standards and will report to the World Bank and to the Government. FREE will maintain all documentation related to project expenditures and keep financial records in accordance with sound accounting practices. FREE will be responsible for keeping the full accounting records of the Project, in charge of all payments, operating the accounting software, handling the Special Account (SA) and the Project Accounts (other development partners contributions), reporting both to the Bank and the Government, planning, budgeting, disbursement and auditing.

All the original project documents, contracts, payment orders, bank statements and all other relevant accounting documents will be kept by FREE, filed on a timely basis and organized in a manner to ensure the full audit trail with the accounting software records.

FREE's key staff (executive director and finance manager) will be responsible for developing detailed financial statements, reporting formats and methods, internal control procedures, disbursement and flow of funds arrangements, assigned staff responsibilities in order to ensure a complete segregation of duties.

FREE will be fully in charge of all payments, disbursement, reporting, accounting, planning, budgeting and auditing relating to the Project. All the original project documents, contracts, payment orders, bank statements and all other relevant accounting documents will be kept by FREE, filed on a timely basis and organized in a manner to ensure the full audit trail with the accounting software records.

Detailed accounts will be kept for each project component and its sub-components. The accounts also reflect: the status of payment against each contract; utilization of the Special Account (SA) and replenishments made by the Bank; utilization of the other sources of funding and uses of the funds. FREE will prepare reports showing detailed budgeted and actual expenditures, uses of funds by source, summary of withdrawals and forecasts, statements of progress achieved to date



and the objectives for the forthcoming quarter and semester. FREE will submit the quarterly Financial Monitoring Reports (FMRs) to the Bank no later than 45 days after the relevant quarter's end.

9.3. COMPUTERIZED ACCOUNTING SYSTEM

The project accounting and reporting software system will be developed, customized and installed, in order to respond to the Terms of Reference agreed between the WB and FREE. The system will be designed to fully respond to the specifics of the Project. The system will feature a customized chart of accounts, detailed financial statements, reporting formats and methods, etc. The system will be able to produce all the Financial Monitoring Reports as required by the WB. The system will produce a trial balance, balance sheet, a statement of sources and uses of funds, income and expenditure statement, special and project account statements.

Usual journals and ledgers should also be produced by the system, such as separate journals for works, goods, consulting and training, and operating costs. The system also normally features the bank accounts ledger, the accounts receivable and accounts payable ledgers, the general ledger and a fixed assets register.

9.4. AUDIT ARRANGEMENTS

The project annual financial statements will be audited each fiscal year in accordance with Bank guidelines, by independent auditors acceptable to the Bank. Copies of the audit reports will be submitted to the Bank within six months of the close of the fiscal year (calendar year). The audit report will cover the Project financial Statements, Special and Project Accounts' Statements, as well as all the Statement of Expenses (SOEs). In addition, the audit shall include on the portfolio and net asset value of FREE's revolving fund account.

9.5. PLANNING AND BUDGETING

FREE will prepare reports showing detailed budgeted and actual expenditures, uses of funds by source, summary of withdrawals and forecasts, statements of progress achieved and the objectives for the forthcoming quarter and semester.

Detailed accounts will be kept for each project component and its sub-components. The accounts also reflect: the status of payment against each contract; utilization of the Special Account (SA) and replenishments made by the Bank; utilization of the other sources of financing and uses of the funds. FREE will submit the quarterly FMRs to the Bank starting with the period in which disbursements will commence, and quarterly thereafter, no later than 45 days after the relevant quarter's end. The budgeting and financial forecasting are an integral part in the process of preparing the FMRs.

9.6. FINANCIAL AND ACCOUNTING PROCEDURES MANUAL

FREE will adhere to sound internal control procedures and practices, to ensure that the Project funds are used with economy and efficiency and only for the purposes intended. FREE will report to the BoA and relevant Ministers and will inform in a timely manner about project implementation and progress.



FREE staff must become familiar with the WB regulations (legal, disbursement, financial management, etc) applicable to their relevant area. A Financial and Accounting Procedures Manual will have to be developed by the FM consultant in cooperation with FREE director and finance manager, documenting all the various types of financial transactions, approval and authorization steps, the flow of documents within FREE and between FREE, fund manager and the beneficiaries, the accounting department of the MoIR, to the MOF, FREE staff responsibilities and measures to ensure a complete segregation of duties, as well as other internal control procedures. The manual will also document the day-to-day internal procedures for each type of activity (such as correspondence handling, contracting and payment procedures, operation of all bank accounts, petty cash, authorization mechanism, reporting, budgeting, planning, filling, etc.). FREE's accounting and financial management policies would be incorporated into its Operational Manual, which would be approved by the Bank before Board presentation.

9.7. FLOW OF FUNDS

The Grant Agreement will be signed between the World Bank (GEF) and the Romanian Government, through the MoF. The MoF will then sign a subsidiary grant agreement with FREE, giving full rights to FREE to use the grant proceeds in accordance with grant and implementation agreements with the WB.

FREE will handle the Grant amounts through the Special Account (SA). The SA will be opened at a commercial bank, acceptable to, and in accordance with WB requirements.

Other sources of financing will be received in a separate project account, that will just be used specifically for the development partners' contributions to the project.

FREE will have the full rights to operate both the special and the project accounts. All documentation pertaining to the project (relating to Grant funds and to the other sources of financing received from other donors as applicable) will be kept at FREE.

9.8. DISBURSEMENT ARRANGEMENTS

Most of the disbursements are expected to be made from the Special Account due to the small size of payments and the nature of operation (FI). The use of Statement of Expenditures (SOEs) would be allowed as noted herein. The various categories are described below.

- Disbursements towards sub-loans will be made against sub-loan agreements approved by FREE's BoA. It is expected that borrowers would contribute at least 20% of the costs of their projects.
- Disbursements towards Fund Manager Retainer fee would not be made on the basis of SOEs.
- Disbursements towards technical assistance and consultancy contracts would be made on the basis of SOEs, subject to a threshold of US\$50,000 for firms and US\$20,000 for individuals.
- Disbursements towards incremental operating costs of FREE would be made against SOEs and the maximum limit each year would be 100% in first year; 90% in second year; 75% in third year; 50% in fourth year and zero thereafter. Disbursements are expected to be direct payments from the Bank only in the case where FREE's clients and consultants express preference for this procedure because of nationality of supplier or the size of the contract.



Glossary of terms: (when the list will be exhaustive will be arranged in alphabetical order)

- GEF
- IBRD
- MFP-Ministry of Public Finance
- MWEP-Ministry of Waters and Environmental Protection
- MOIR-Ministry of Industry and Resources
- FREE –Romanian Energy Efficiency Fund
- Fund Manager –Fund Management Company
- EO-Emergency Ordinance
- BoA-Board of Administration
- IC-Investment Committee
- ED-Executive Director
- FC –financial Controller
- GA-grant agreement
- SGA-subsiary grant agreement
- LEPA-Local Environmental Protection Agency



ANNEX I



ROMANIAN ENERGY EFFICIENCY FUND

CONTRACT FOR CONSULTANTS' SERVICES

between

FREE – Fondul Roman pentru Eficienta Energiei

and

[name of the Consultants]

Dated: _____



I. Form of Contract

This CONTRACT (hereinafter called the “Contract”) is made the [day] day of the month of [month], [year], between, on the one hand, FREE – Fondul Roman pentru Eficienta Energiei (hereinafter called the “Client”) and, on the other hand, [name of consultants] (hereinafter called the “Consultants”).

[Note: If the Consultants consist of more than one entity, the above should be partially amended to read as follows: “...(hereinafter called the “Client”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Client for all the Consultants’ obligations under this Contract, namely, [name of consultants] and [name of consultants] (hereinafter called the “Consultants”).]¹

WHEREAS

(a) the Client has requested the Consultants to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);

(b) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

(c) the Client has received [or has applied for] a grant from the International Bank for Reconstruction and Development (hereinafter called the “Bank”) [or a credit from the International Development Association (hereinafter called the “Association”)] towards the cost of the Services and intends to apply a portion of the proceeds of this grant [or credit] to eligible payments under this Contract, it being understood (i) that payments by the Bank [or Association] will be made only at the request of the Client and upon approval by the Bank [or Association], (ii) that such payments will be subject, in all respects, to the terms and conditions of the agreement providing for the grant [or credit], and (iii) that no party other than the Client shall derive any rights from the agreement providing for the grant [or credit] or have any claim to the grant [or credit] proceeds;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices: *[Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.]*

Appendix A: Description of the Services	___
Appendix B: Reporting Requirements	___
Appendix C: Key Personnel and Subconsultants	___
Appendix D: Breakdown of Contract Price in Foreign Currency and Payment Procedures	___
Appendix E: Breakdown of Contract Price in Local Currency	___ Not used

¹ Text in brackets is optional; all notes should be deleted in final text.



Appendix F: Services and Facilities Provided by the Client _____

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract, in particular:

- (a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
- (b) the Client shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of FREE – Fondul Roman pentru Eficienta Energiei

[Authorized Representative]

For and on behalf of *[name of consultants]*

[Authorized Representative]

[Note: If the Consultants consist of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Consultants

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]



II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

(a) “Applicable Law” means the laws and any other instruments having the force of law in the Government’s country (or in such other country as may be specified in the Special Conditions of Contract (SC)), as they may be issued and in force from time to time;

(b) “Bank” means the International Bank for Reconstruction and Development, Washington, D.C., U.S.A.;

or

(b) “Association” means the International Development Association, Washington, D.C., U.S.A.;

(c) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached, together with all the documents listed in Clause 1 of such signed Contract;

(d) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;

(e) “Foreign Currency” means any currency other than the currency of the Government;

(f) “GC” means these General Conditions of Contract;

(g) “Government” means the Government of the Client’s country;

(h) “Local Currency” means the currency of the Government;

(i) “Member,” in case the Consultants consist of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultants’ rights and obligations towards the Client under this Contract;

(j) “Party” means the Client or the Consultants, as the case may be, and “Parties” means both of them;

(k) “Personnel” means persons hired by the Consultants or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof;

(l) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;

(m) “Services” means the work to be performed by the Consultants



pursuant to this Contract, as described in Appendix A; and

(n) “Subconsultant” means any entity to which the Consultants subcontract any part of the Services in accordance with the provisions of Clauses 3.5 and 4.

- 1.2 Law Governing the Contract** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
- 1.3 Language** This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 1.4 Notices** Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SC.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Government’s country or elsewhere, as the Client may approve.
- 1.6 Authorized Representatives** Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the Consultants may be taken or executed by the officials specified in the SC.
- 1.7 Taxes and Duties** Unless otherwise specified in the SC, the Consultants, Subconsultants, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.



2. COMMENCEMENT, COMPLETION, MODIFICATION, AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be stated in the SC.

2.2 Commencement of Services The Consultants shall begin carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be specified in the SC.

2.3 Expiration of Contract Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period after the Effective Date as is specified in the SC.

2.4 Modification Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties and shall not be effective until the consent of the Bank or of the Association, as the case may be, has been obtained.

2.5 Force Majeure

2.5.1 Definition For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.2 No Breach of Contract The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension of Time Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultants shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Client The Client may terminate this Contract, by not less than thirty (30) days’



written notice of termination to the Consultants, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause 2.6.1 and sixty (60) days' in the case of the event referred to in (e):

- (a) if the Consultants do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultants become insolvent or bankrupt;
- (c) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the consultant, in the judgment of the client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause:

“corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the selection process or in contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition.

- (e) if the Client, in its sole discretion, decides to terminate this Contract.

2.6.2 By the Consultants

The Consultants may terminate this Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Clause 2.6.2:

- (a) if the Client fails to pay any monies due to the Consultants pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Consultants that such payment is overdue; or
- (b) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.6.3 Payment upon Termination

Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultants:

- (a) remuneration pursuant to Clause 6 for Services satisfactorily



performed prior to the effective date of termination;

(b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

3. OBLIGATIONS OF THE CONSULTANTS

3.1 General

The Consultants shall perform the Services and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Subconsultants or third parties.

3.2 Conflict of Interests

3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultants pursuant to Clause 6 shall constitute the Consultants' sole remuneration in connection with this Contract or the Services, and the Consultants shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultants shall use their best efforts to ensure that the Personnel, any Subconsultants, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Consultants and Affiliates Not to be Otherwise Interested in Project

The Consultants agree that, during the term of this Contract and after its termination, the Consultants and their affiliates, as well as any Subconsultant and any of its affiliates, shall be disqualified from providing goods, works, or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Consultants nor their Subconsultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

(a) during the term of this Contract, any business or professional activities in the Government's country which would conflict with the activities assigned to them under this Contract; or

(b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality

The Consultants, their Subconsultants, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential



information relating to the Project, the Services, this Contract, or the Client's business or operations without the prior written consent of the Client.

3.4 Insurance to be Taken Out by the Consultants The Consultants (a) shall take out and maintain, and shall cause any Subconsultants to take out and maintain, at their (or the Subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Consultants' Actions Requiring Client's Prior Approval The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:

- (a) entering into a subcontract for the performance of any part of the Services,
- (b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subconsultants"), and
- (c) any other action that may be specified in the SC.

3.6 Reporting Obligations The Consultants shall submit to the Client the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents Prepared by the Consultants to Be the Property of the Client All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Consultants in accordance with Clause 3.6 shall become and remain the property of the Client, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SC.



4. CONSULTANTS' PERSONNEL

4.1 Description of Personnel The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Consultants' Key Personnel are described in Appendix C. The Key Personnel and Subconsultants listed by title as well as by name in Appendix C are hereby approved by the Client.

4.2 Removal and/or Replacement of Personnel (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Key Personnel, the Consultants shall provide as a replacement a person of equivalent or better qualifications.

(b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.

(c) The Consultants shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions The Client shall use its best efforts to ensure that the Government shall provide the Consultants such assistance and exemptions as specified in the SC.

5.2 Change in the Applicable Law If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the services rendered by the Consultants, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities The Client shall make available to the Consultants the Services and Facilities listed under Appendix F.

**6. PAYMENTS TO THE CONSULTANTS**

- 6.1 Lump-Sum Remuneration** The Consultant’s total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, Subconsultants’ costs, printing, communications, travel, accommodation, and the like, and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.
- 6.2 Contract Price** (a) The price payable in foreign currency is set forth in the SC.
(b) The price payable in local currency is set forth in the SC.
- 6.3 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.4 Terms and Conditions of Payment** Payments will be made to the account of the Consultants and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultants of a bank guarantee for the same amount, and shall be valid for the period stated in the SC. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultants have submitted an invoice to the Client specifying the amount due.
- 6.5 Interest on Delayed Payments** If the Client has delayed payments beyond fifteen (15) days after the due date stated in the SC, interest shall be paid to the Consultants for each day of delay at the rate stated in the SC.

7. SETTLEMENT OF DISPUTES

- 7.1 Amicable Settlement** The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
- 7.2 Dispute Settlement** Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party’s request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

III. Special Conditions of Contract

Number of GC Clause ²	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
----------------------------------	--

- | | |
|--------|---|
| 1.1(a) | The words “in the Government’s country” are amended to read “in Republic of Romania.” |
|--------|---|

² Clauses in brackets are optional; all notes should be deleted in final text.



- [1.1(i) The Member in Charge is *[name of Member].*]
- 1.3 The language is *English.*
- 1.4 The addresses are:
- Client: FREE – Fondul Roman pentru Eficienta Energiei___
Attention: Mr Romulus Ion Moucha, Chairman of the Board___
Telex: _____
Facsimile: _____
- Consultants: _____
Attention: _____
Telex: _____
Facsimile: _____
- 1.6 The Authorized Representatives are:
- For the Client: _____
- For the Consultants: _____
- 1.7 This Clause will be finalized during negotiations, using one of the following options:
(a) The Client will pay VAT on behalf of the Consultants; or
(b) VAT will be included in the amount of invoice to be paid by the Client to Consultants.
- 2.1 The date on which this Contract shall come into effect is:
The date of approval of the Contract by the Bank, the date of effectiveness of Bank Grant, whichever is latest.
- [2.2 The date for the commencement of Services is *[date].*]
- 2.3 The period shall be 60 months or such other period as the parties may agree in writing.
- 3.4 The risks and coverage shall be:
- (i) Third Party motor vehicle minimum required by Applicable Law
 - (ii) Third Party liability minimum required by Applicable Law
 - (iii) Employer's liability and workers' compensation minimum required by Applicable Law
 - (iv) Professional liability in the amount not less than US\$1.5 million
 - (v) Loss or damage to equipment and property NA

**3.5(c)**

The other actions are: any action which may have legal implications for FREE

3.7

- The Consultants shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client.

5.1

NA

6.2(a)

The amount in foreign currency or currencies is set forth in the Appendix D.

6.2(b)

The amount in local currency is NA.

6.4

The accounts are:

for foreign currency: *[insert account]*

for local currency: *[insert account]*

Payments shall be made according to the schedule in Annex D:

6.5

Payment shall be made within 45 days of receipt of the invoice and the relevant documents specified in Clause 6.4 and Annex D, and within 60 days in the case of the final payment.

The interest rate is 10%

7.2

Any dispute, controversy, or claim arising out of or relating to this contract, or the breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

Note: If the Consultant is a national of the Government's country, this provision should be modified and referred to the Government country's rules for settlement of disputes.

IV. Appendices**APPENDIX A—DESCRIPTION OF THE SERVICES**

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Client, etc.

APPENDIX B—REPORTING REQUIREMENTS

List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here "Not applicable."

**APPENDIX C—KEY PERSONNEL AND SUBCONSULTANTS**

List under: C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of foreign Personnel to be assigned to work in the Government's country, and staff-months for each.

C-2 Same as C-1 for Key foreign Personnel to be assigned to work outside the Government's country.

C-3 List of approved Subconsultants (if already available); same information with respect to their Personnel as in C-1 or C-2.

C-4 Same information as C-1 for Key local Personnel.

APPENDIX D—BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY AND PAYMENT PROCEDURES

The Contract Price is the sum of Retainer and Success Fee.

The payment of the fees will be made in accordance with the Table 1 “Fund Manager Remuneration Parameters” in the TOR, finalized during negotiations.

APPENDIX E—BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

Not Used

Appendix F—Services and Facilities Provided by the Client



ANNEX II

**Table 1: FREE Fund Manager Remuneration Parameters**

Payment Description	Years 1 to 3	Years 4 to 5	Remarks
Retainer – fixed part*	To be paid from GEF TA funds in the amount of \$200,000 per year. The fee is intended to cover basic costs of the FM and will be payable on a monthly basis in equal installments.	Retainer during this period will be paid from Fund's income. Under normal circumstances, retainer structure will be the same as during years 1 to 3 subject to price adjustment for cost of inputs (labor). However, if the income is not sufficient, FREE and FM will renegotiate necessary adjustments to the FM's fees.	
Retainer – performance-based fee*	<p>To be paid from GEF TA funds. This fee is divided into two parts and paid on quarterly basis:</p> <ol style="list-style-type: none">1. A fee based on the repayment performance of the sub-loans. This fee will be calculated prorata on the actual repayment performance with the expected performance as per the subloan agreements.2. A “new loans” fee based on the value of loans issued, which will be based prorata on the actual performance compared to the agreed targets in the annual business plan. <p>The total annual amount of performance-based fee is \$100,000, and it will be split between the above two parts in the following proposed proportion:</p> <p>First year – 80% for repayment performance and 20% for “new loans”; Second year – 60%/40%; Third and subsequent years – 50%/50%</p>	See above.	This bonus structure will provide incentives for the FM to finalize sufficient number of deals, and, at the same time, to apply necessary diligence and effort when preparing the sub-projects and monitoring the repayment.



Deal closing or loan origination fee	To be paid by subproject beneficiaries (borrowers) directly to the Fund Manager in accordance with Romanian standards and market practice; FM to fully disclose the details for every deal to FREE	To be paid by subproject beneficiaries (borrowers) directly to the Fund Manager in accordance with Romanian standards and market practice; FM to fully disclose the details for every deal to FREE	
Success fee (carried interest in the Fund)	Not payable during the first three years	To be paid from the Net Asset Value of the Fund at the end of the contract period after 60 months (or earlier, if contract terminated for no fault of the FM, but not before the 36 th month of contract) as per terms of contract. Before payment of the success fee, 30% of the NAV increase will be reserved for reinvestment.	<p>The increase in the Net Asset Value of the Fund is defined as the difference between the net asset value of the portfolio at a given date minus the original principal value disbursed for investments. The net asset value of the portfolio will be equal to cash balance in the revolving fund plus the net present value of all future cash flows from the portfolio investments.</p> <p>For the debt part of the portfolio investments, the future cash flows will be discounted at the 3-month US Dollar LIBOR rate prevailing on the day of valuation.</p> <p>For other assets that may be in the Fund's portfolio, the Net Asset Valuation will be based upon prevailing regulations in Romania.</p> <p>For the purpose of success fee calculation, the amount of FREE's annual operating cost in excess of US\$ 200,000 after year three are added to the net asset value.</p> <p>The original principal value means all funds disbursed from the World Bank special account towards investments including any other funds added into the revolving fund for investment purposes, but excluding any funds specifically designated for technical assistance.</p>

Note: * Retainer amounts are exclusive of VAT when paid from GEF TA funds (during years 1 to 3)