



## D2.5 Country Report on Recommendations for Action for Development of EPC Markets

**Latvia**



Co-funded by the Intelligent Energy Europe  
Programme of the European Union



### **Transparensense project**

This document has been conducted within the framework of project “Transparensense – Increasing Transparency of Energy Service Markets” supported by the EU program “Intelligent Energy Europe”

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November 2013

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### Abbreviations

EBRD (European Bank for Reconstruction and Development)

EED (Energy Efficiency Directive)

EES (Energy Efficiency Service)

EPC (Energy Performance Contracting)

ESCO (Energy Services Company)

EU (European Union)

M&V (Monitoring and Verification)

VAT (value added tax)

# Report on recommendations for action for development of EPC markets in Latvia



## 1 Summary

The present report aims at providing recommendations for action for the successful development of the EPC market in Latvia.

The report is building on the data and information gathered by two other similar projects, the European Energy Service Initiative<sup>1</sup> (EESI) and the ChangeBest project<sup>2</sup>. It is also intended as a continuation on the work of the European Commission's Joint Research Centre – Institute for Energy, and more particularly on its 2010 Status Report on Energy Service Companies Market in Europe<sup>3</sup>. The report is as well as based on the information provided by the housing and energy conservation bureau, a Latvian EPC facilitator.

In this report is given the purpose and applications of the Code of Conduct as well as recommendations regarding the EPC development in Latvia and the basic information and definitions of EPC and EPC providers.

Recommendations are mostly concentrated on the legislation developments in order to get rid of the legislative, regulatory, structural, administrative, financial barriers and introduce new political and financial tools. For the development of the EPC markets to be successful, education of numerous parties is required. These include policy makers, costumers, EPC providers, associations of ESCOs etc.

In this report numerous financial tools are proposed to support the EPC market. A detailed account of the forfeiting fund is also included.

## 2 Introduction

### 2.1 Methodology

The contents of this report are based on two main sources:

- the results of a nation-wide EPC survey which was sent to the country's main actors within the EPC market
- the market knowledge of the authors, as well as research from local / national literature (publications and studies, legislation documents, official statistics and databases)

The first step in collecting the data used in this document was to distribute a survey focused on Energy Performance Contracting (EPC) to the country's most relevant energy services

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<sup>1</sup> <http://www.european-energy-service-initiative.net/eu/toolbox/national-reports.html>

<sup>2</sup> [http://www.changebest.eu/index.php?option=com\\_content&view=article&id=43&Itemid=10&lang=en](http://www.changebest.eu/index.php?option=com_content&view=article&id=43&Itemid=10&lang=en)

<sup>3</sup> <http://publications.jrc.ec.europa.eu/repository/bitstream/111111111/15108/1/jrc59863%20real%20final%20esco%20report%202010.pdf>

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companies, organisations and finance houses. The survey contained questions around four main areas: existing ESCOs and national EPC market; EPC models, financing models and policy initiatives. The answers were then analysed and the results were presented in a previous report in aggregated form (Transparensense National Report on identified barriers and success factors for EPC project implementation).

This report goes one step further and makes a series of recommendations tailored for Latvia's national EPC market. These recommendations are based on the information gathered from the respondents to the surveys (in written form or in conversations), as well as on the authors' knowledge of the national market and of any relevant literature / research piece.

This report aims at showcasing the successful experiences for EPC providers in Latvia and separating what has been proven to enhance the EPC offering from what constitutes potential barriers. The recommendations contained in this report have been made in order to tackle the issues highlighted in the previous Transparensense report (Transparensense National Report on identified barriers and success factors for EPC project implementation). The authors believe that EPC providers / customers and the EPC industry as a whole will benefit from replicating the success factors observed within the national market. These recommendations should be seen as "best practice" guidelines and disseminated within Latvia in order to improve the quality of the EPC market.

### 2.2 What is Energy Performance Contracting

Energy performance contracting (EPC) is when an energy service company (ESCO) is engaged to improve the energy efficiency of a facility, with the guaranteed energy savings paying for the capital investment required to implement improvements. Under a performance contract for energy saving, the ESCO examines a facility, evaluates the level of energy savings that could be achieved, and then offers to implement the project and guarantee those savings over an agreed term.

A typical EPC project is delivered by an Energy Service Company (ESCO) and consists of the following elements:

- **Turnkey Service** – The ESCO provides all of the services required to design and implement a comprehensive project at the customer facility, from the initial energy audit through long-term Measurement and Verification (M&V) of project savings.
- **Comprehensive Measures** – The ESCO tailors a comprehensive set of measures to fit the needs of a particular facility, include energy efficiency and in addition, can include renewables, distributed generation and water conservation.

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- **Project financing** – The ESCO arranges for long-term project financing that is provided by a third-party financing company, typically in the form of a bank loan.
- **Project Savings Guarantee** – The ESCO provides a guarantee that the savings produced by the project will be sufficient to cover the cost of project financing for the life of the project.

Energy Performance Contracting allows facility owners and managers to upgrade ageing and inefficient assets while recovering capital required for the upgrade directly from the energy savings guaranteed by the ESCO. The ESCO takes the technical risk and guarantees the savings.

The ESCO is usually paid a management fee out of these savings (if there are no savings, there is no payment) and is usually obligated to repay savings shortfalls over the life of the contract. At the end of the specific contract period the full benefits of the cost savings revert to the facility owner.

The methodology of Energy Performance Contracting differs from traditional contracting, which is invariably price-driven. Performance contracting is results-driven: ensuring quality of performance. ESCOs search for efficiencies and performance reliability to deliver contractual guarantees.

### 2.3 Definition of EPC and EPC provider

While there is a vast number of definitions of EPC within Europe, within Transparensense project we use the EU wide definition provided by the Energy Efficiency Directive<sup>4</sup> (EED):

“**energy performance contracting**’ means a contractual arrangement between the beneficiary and the provider of an energy efficiency improvement measure, verified and monitored during the whole term of the contract, where investments (work, supply or service) in that measure are paid for in relation to a contractually agreed level of energy efficiency improvement or other agreed energy performance criterion, such as financial savings;”.

At the same time, within Transparensense project, the focus will be given to the EPC projects, where the above mentioned “contractually agreed level of energy efficiency improvement” is **guaranteed** by the EPC provider<sup>5</sup>. This is in line with the EED, as in its Annex XIII,

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<sup>4</sup> Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC was approved on 25 October 2012.

<sup>5</sup> Guarantee of energy efficiency improvement is defined by EN 15900:2010 as “commitment of the service provider to achieve a quantified energy efficiency improvement”.

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guaranteed savings<sup>6</sup> are listed among the minimum items to be included in energy performance contracts with the public sector or in the associated tender specifications. Moreover, in the article 18 of EED, Member States are required to promote the energy services market and access for SMEs to this market by, inter alia, disseminating clear and easily accessible information on available energy service contracts and clauses that should be included in such contracts to **guarantee energy savings** and final customers' rights.

Further, within the Transparensense, we define the companies providing EPC as follows:

“ **EPC provider**’ means a natural or legal person who delivers energy services in the form of Energy Performance Contracting (EPC) in a final customer’s facility or premises”

Such definition respects the fact that EPC is only one type of energy services, and is in line with the definition of the energy services provider specified in the EED (for its definition see the glossary at the end of the report). Within the Transparensense texts, we use the commonly used term “ESCO” as equivalent of the energy service provider.

### 3 EPC Code of Conduct

An important step towards a transparent and trustworthy EPC market is the acceptance and widespread usage of the EPC Code of Conduct. Such a Code is being developed under the Transparensense project and will be publically discussed with all interested parties to reflect their needs and concerns.

The Code of Conduct is a set of principles describing best practice from EPC providers (primarily) and customers (secondly) in the preparation and implementation of EPC projects in order for them to succeed, maximizing the energy and cost saving resulting from the EPC. The Code is a voluntary commitment and it is not synonymous with any legal obligation. However, acts in violation of the EPC Code of Conduct may cause damage to the EPC providers’ and/or the customers’ good name. It is also an indicator of the quality requirements for new EPC providers entering the EPC market. The EPC Code of Conduct is an in-depth view of what EPC providers and customers believe the EPC excellence is, and it paints a picture of how customers and EPC providers can expect to be treated as a result.

By adhering to the EPC core values of the Code of Conduct, EPC providers and customers develop solid foundations for working partnerships based on trust and confidence. They are expected to utilise the Code in order to further develop energy efficiency services to meet their goals and expectations.

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<sup>6</sup> Annex XIII of the EED lists the minimum item as: „Guaranteed savings to be achieved by implementing the measures of the contract.“

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The EPC Code of Conduct aims to improve understanding and awareness of the EPC and raise EPC quality requirements by setting best practice commitments and proposing standards to be met by the EPC providers, in line with other initiatives. The Code encourages the development of voluntary quality labels and tools for certified energy savings, and ultimately further develops energy efficiency policy. As a result, the EPC market as a whole (level of demand + quality of offer) in Latvia will benefit from adherence to the Code of Conduct.

### 4 Governmental strategy to boost the EPC market

In recent years energy efficiency in Latvia has been set as a general policy priority. However, clear incentives and instrument to promote EPC have not been developed and yet considered.

The governmental strategy should include measures to enhance the implementation and approval of EPC in the public and private sectors. The strategy has to comply with the EED, which sets obligations on Member States to support energy services market (model contracts, provision of information, and removal of barriers...), particularly article 18.

Then main recommendation for this governmental strategy is the development of policy and regulation that can create demand for EPC, or at least a level playing field. Latvian policymaker should not be focusing on a particular product or service (thermal insulation of buildings, heat energy supply, etc...), but rather on an outcome (energy efficiency targets, deep and comprehensive renovation of public and residential buildings, adequate housing) defined through an agreed set of metrics; including economic, environmental and social dimension, and based on long term thinking and life-cycle basis. The policy must avoid the possibility for utilities and ESCOs to cherry pick the most profitable energy efficiency measures, without considering the need for deep renovation.

Policymakers should promote energy efficiency based on EPC. This means moving away from the dominant business models and promotes a new energy efficiency industrial policy for Latvia. The potential markets is enormous (two examples: the Latvian State Agency for Real Estate owns over 5m m<sup>2</sup> of buildings which need energy efficient renovation and the multifamily serial buildings account for over another 39m m<sup>2</sup>. The cost of renovating would be close to €4b for 70% of the latter<sup>7</sup>) and this requires “thinking big”, meaning moving away from the dominant cost competitive models and start consider new business models and institutional frameworks.

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<sup>7</sup> Estimation made by an independent study commissioned by the Latvian housing and energy conservation bureau

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This should start with the development of an action plan for EPC implementation, including measures for the removal of legislative and administrative barriers, information dissemination, education and networking and indication about financial instruments to support EPC.

## 5 Removal of legislative and administrative barriers

In Latvia there are still numerous policies restricting the development of an energy efficiency service (EES) market and the use of EPC. For example lack of standard contracts, public procurement rules, lack of standards for M&V, rules for financial management, public sector tendering and decision making process in residential buildings (e.g. decision making process to agree to investment in multi-family building). Most of the legislative problems are not related to energy savings but regard arrangements between parties in general.

### 5.1 Lack of standard contract

The EPC market in Latvia is not thoroughly developed and there are not standardized contract throughout the industry.

For the residential sector a similar EPC form of contract has been used by two ESCOs active in the sector. Based on this EPC contract, the Latvian housing and energy conservation bureau, has developed an EPC contract for deep renovation of residential buildings, which had a further round of legal reviewers and is now under examination by the Ministry of Economic for acknowledgment. For the residential sector it is recommended to endorse this EPC as a standard type of contract. This EPC is mainly designed for residential building, addressing energy savings on space heating and domestic hot water preparation. The payments are expressed in Euro/m<sup>2</sup> (as resident are used to pay based on this unit) and invoiced on monthly basis with degree days yearly adjustments.

For public buildings, it is recommended to use the EPC developed for the residential sector as basis for the development of standard type contracts. The first task is to extend the contents for baseline studies (space heating, domestic hot water, lighting/electricity consumption, building usage, etc...), tailoring payment procedures to the public sector and have a legal review on the contract general terms.

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### 5.2 Public procurement rules in the public sector

Latvia is now introducing legislation to require public authorities to refurbish at least 3% of their building stock each year. At the same time public utilities will be subject to National Energy Saving Obligation (1.5%), in which eventually they may subcontract the obligation of energy savings to ESCOs using EPCs. However, the current framework for public procurement is not suitable and Latvia shall adapt its legislative framework to address the specific issues needed for the procurement of EPC. In Europe there are examples of models used for public procurement suitable for ESCOs and EPC. For example in Portugal a specific law on EPC was developed in 2011; in Germany since 2008 there is a Federal Law clarifying various aspects of energy efficiency public procurement and in France since 2004 the law on public private partnership gives a mechanism for procuring long term services suitable for EPC too, in Czech Republic more and 150 EPC projects have been already procured in the public sector.

When adapting the procurement law for EPC the following main points shall be considered:

- For complex ESCO projects based on EPC, negotiated procedures are needed as they facilitate competition of solutions and prices;
- Technical and ecological award criteria are recommended, but shall be related to subject matter of the contract and verifiable/measurable;
- Most clients need support from market facilitators to define projects, business models, tender documents in order to procure “real” EPC;
- For the public sector is important that the operating financial energy savings on the operating budget of a building can be used to reimburse ESCO’s investments;

To enhance this process it is recommended for Latvia<sup>8</sup>:

- Lists of qualified ESCO’s to be established including technical and financial qualifications needed;
- Code of conduct for EPC and model contracts public available, on public websites (Ministry of Economics, Local municipalities, Latvian development agency);
- Consider the possibility in the procurement procedures about varied financing possibilities, including factoring (see chapter 7);
- Support EPC facilitator to assist the public procurement process, so ESCOs will need to deal with specialised entities along with the procuring agency;
- Consider the possibility to procure energy efficiency and energy generation together;

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<sup>8</sup> Modified from: European Workshop on the Facilitation of Energy Services and the ESCO market in Europe (<http://iet.jrc.ec.europa.eu/energyefficiency/workshop/european-workshop-facilitation-energy-services-and-esco-market-europe>)

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- Consider the possibility of joint procurement with pooling of buildings to gain sufficient energy use and to lower transaction costs to justifying procurement of energy efficiency savings;
- Consider longer contract periods of even 20 years for “deep renovation” requirements of new EU requirement;
- Consider the option where publicity owned ESCO directly contracts a public entity and then subcontract to private ESCO’s on a competitive basis.

### 5.3 Public procurement rules for deep renovation of residential buildings

In Latvia currently EPC are used for deep renovation of residential buildings. This was enabled by the use of structural funds that ESCOs can receive in the form of subsidies.

In Latvia the use of public subsidies requires the use of full public procurement procedures for every construction project above the threshold of €170k. These full public tender procedures remarkably increase transaction costs for ESCO<sup>9</sup>. The EU directive for the award of public works contracts, public supply contracts and public service contracts (Directive 2004/18/EC) allows for higher thresholds.

To better enable ESCOs to use EPC in the residential sector it is recommended to bring this threshold above €1.5m, which allows the renovation of large residential buildings using simplified public procurement rules. Residents will benefits from this change because ESCOs will be able to improve their competitive offer and conditions.

### 5.4 Decision making in buildings

The decision making process for multifamily residential buildings in Latvia is currently a bottleneck to building deep energy efficient renovation. The critical issue concerns the definition of the legal number. Currently building general assemblies are organised with a single convocation and every decision shall be voted by 51% of the total house owner’s number. Therefore, house owners not attending the assembly are automatically voting against every investment decision. Moreover very often is difficult to reach the legal number at the general assembly.

It is recommended to change the current system for taking decision in buildings and to introduce a double convocation system for example with the following requirements:

- At the first convocation of the assembly at least 75% of flat owners are represented at the assembly. Every decision voted by the majority of participants (51%) to the assembly is legal;

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<sup>9</sup> D2.4 WP2 - D2.4 - Country Report on barriers & success factors LV

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- If at the first convocation this legal number is not reached, there is a second convocation of the assembly not later than 10 days from the first convocation. At the second convocation of the assembly there are no restrictions on the legal number of participants. Every decision taken by the majority of participants (51%) to the assembly is legal;
- The vote of the owners should be weighted to the owned area (m<sup>2</sup>) and not to the number of apartments.

### 5.5 Regulatory

Public buildings have a yearly budget, of which energy is one item. This item should be flexible to the use of EPC, and the yearly budget for a building should not be reduced because energy bills are reduced after the implementation of energy efficiency measures (whether as a part of an EPC or not).

After deep building renovation, the cadastral value of the property increases, meaning higher real estate tax. This issue is typically not part of an Energy Performance Contract. It is recommended to introduce a grace period to mitigate this barrier.

Following the Directive 2006/112/EC on the common system of value added tax (VAT) Latvia has a reduced rate to the supply of district heating – a 12% rate compared to the standard 21% on goods and services. This reduced rate is typically not a problem in the Business to Business sector where companies and institutions are eligible to recover VAT, however the problem arises in the private sector for deep renovation of multifamily buildings, where the final consumer cannot recover VAT. In this way all saved energy from ESCO is under a 21% VAT regime, while the energy sold benefits from a 12% regime. This is a distortion of competition between energy supplier and energy efficiency supplier, as in this way the final consumer is induced to keep paying for energy supply instead of buying energy efficiency services from an ESCO.

To solve this regulatory barrier there are two different ways, which are recommended:

- To exclude district heating from the reduced rate and lift the VAT rate to 21%. Then, the government should use the extra VAT income to provide social support to low income population most vulnerable to fuel poverty;
- To include deep energy efficiency renovation of multifamily building as part of a social policy to reduce fuel poverty and provide suitable and affordable housing to Latvia. The regulation should focus on the possibility to refund ESCO services under this social policy at a reduced rate congruent with district heating supply and energy supply in general.

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This issue should be addressed and considered as well as European level and taken into consideration when the Commission decides whether or not there is a risk of distortion of competition.

## 6 Information dissemination, education and networking

The complexity of EPC and the lack of trust in the ESCO industry are two of the structural barriers identified during the Transparense survey carried out in Latvia. These two barriers are linked to the lack of information and education about EPC and both calls for public and private initiatives for transferring know-how, training and networking in the developing EPC market.

Information dissemination has to be targeted, focusing on the profitability of energy efficiency projects and EPC and addressing:

- EPC providers and/or association of ESCOs:
  - Dissemination of information material for potential clients and financial market;
  - Demonstrational sites/projects
- Customers
- EPC facilitators and energy agencies:
  - Dissemination of information material for potential clients and financial market;
  - Making energy data transparent, available and easy to understand. It is also important for financial markets, which need high-quality data on the actual energy savings associated with various types of energy efficiency projects;
  - Programmes to build the capacities of market participants to develop and structure finance for projects, including training for business plan preparation across a range of possible project;
  - Specific packages to assist and guide project proponents through procedures related to energy performance contracting and public procurement;
  - Standard procedures and documents to help setting up an ESCO project;
- Policymaker:
  - Supplementary policies, such as energy audit, voluntary agreement systems, or monitoring of energy consumption of public entities and large private energy users with a possible commitment and/or incentive to implement economically feasible projects;
  - Standard procedures and documents to help setting up an ESCO project;

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- Energy price increase and/or higher consciousness;
- Guarantee schemes and ESCO assurance;
- setting up tax policies that encourage industrial investment in efficiency;

## 7 Financial instruments to support EPC

In the Latvia funding for EPC projects and more generally energy efficiency investments originate mainly as debt financing from commercial banks with equity from private investors. However, this sort of financing is not really suitable for most of the EPC, in particular when contract terms are more than 10 years. Definitely for deep renovation other types of financing mechanism are needed.

To open the door to EPC and new energy efficiency financing opportunities, the general recommendation are:

- creating a secondary market for EPC contracts;
- setting up programmes to resell EPC contracts to investors in the secondary markets;
- attaching energy efficiency incentives to mortgages;
- increasing awareness of buyers of real estate through ratings and information;
- providing customers with their energy use data.

In particular the development of Secondary Market is considered very important. Currently there is no robust secondary market for energy efficiency loans because there is no uniform system for evaluating EPC contracts. In secondary markets, investors buy EPC which have already been issued and energy savings proved. If institutional investors could buy large quantities of EPC contracts, that would create a market for energy efficiency lending.

To remove this barrier and allow investors access to the market guidelines, template contract, and data requirements for EPC investment need to be further developed.

For EPC to take off in Latvia, to support the development of a forfeiting fund is highly recommended. The fund should be able to work attracting private investors. A basic concept has been already presented in a number of events lately in Latvia and has already got support from the Latvian Guarantee Agency, from the Bureau for Housing and Energy conservation and from specialists in the sector.

In the first step, the ESCO signs an Energy Performance Contract with building owners, and designs/costs the project. Then, the ESCO submits the project to the Fund for a pledge (if needed): a commitment by the Fund that it will purchase the receivables if the project meets the targets. The ESCO can then apply for working capital from its bank and perform the works (figure 7.1).

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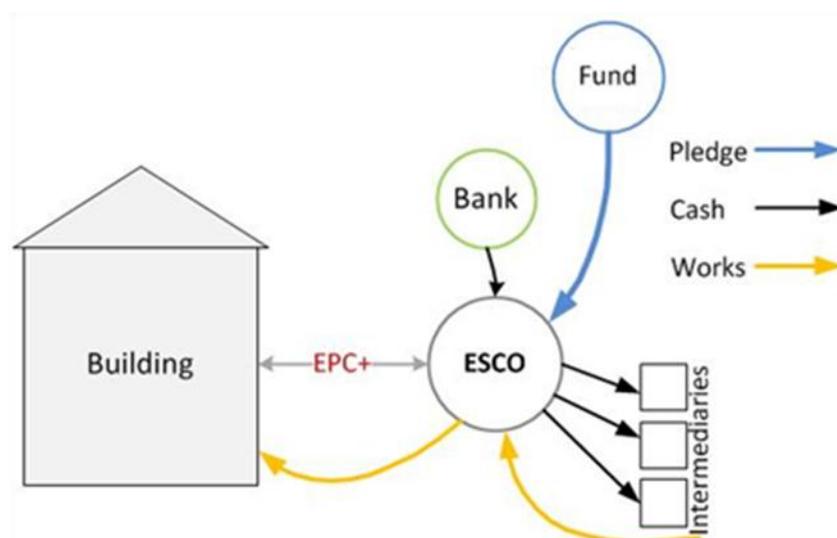


Figure 7.1. Basic scheme for a forfeiting fund for EPC

After the first heating season or after remedies in case where targets were not met, the Fund and the ESCO enter into an Assignment agreement, while the ESCO respects its maintenance/service agreement with the Building (See Figure 7.2).

This is a transfer of future receivables from one party (cessionary – an ESCO) to another (buyer – the Fund). The original creditor (the ESCO) cedes his claims and the new creditor (the Fund) gains the right to claim future receivables from the debtor (the client). The ESCO sells future receivables to the Fund in return for a discounted payment.

In the forfeiting transaction the ESCO assigns - via an Assignment Agreement - future receivables (e.g. the building owners utility payments) from the Building Renovation and Energy Service Agreement to the Fund together with pledge of assets. The end-user pays directly to the Fund (less guarantee and maintenance fees).

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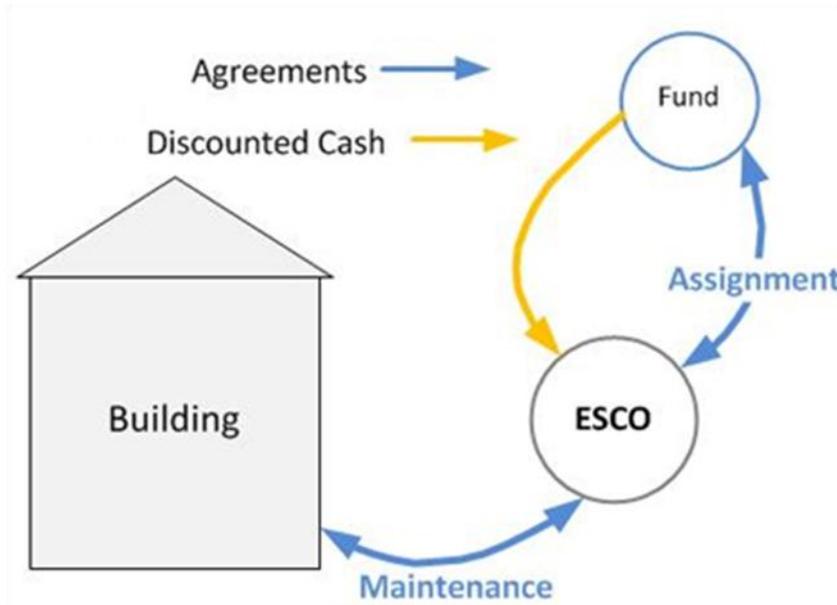
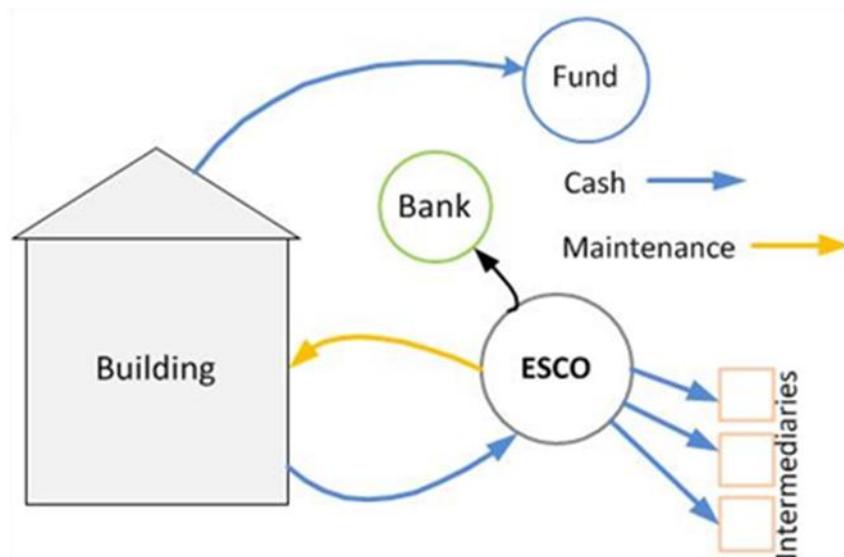


Figure 7.2. Assignment agreement between the ESCO and the Fund

This allows the ESCO to either repay the Bank for the Working Capital it received to execute the project, or to invest in a new project.

The building owners, the ESCO and the lender also sign a “Notice and Acknowledgment of Assignment” where the end user acknowledges the terms of the Assignment Agreement. The ESCO performs maintenance and service of the system and the end user pays fixed monthly payment for this service under a separate Guarantee and Maintenance Agreement. The fee will be sufficient to ensure that the ESCO has a significant stake in the long term success of the contract.



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Figure 7.3. payment flow during the execution of the EPC

Then the payments would be made according to the scheme in Figure 7.3 until the conclusion of the contract. These contracts would then be grouped and bonds could be issued against them once a successful track record could be demonstrated and in a final step, these contracts could be transformed into securities for sale to institutional investors such as pension funds. The scheme has been reviewed by experts in several financial institutions such as Swedbank in Latvia, DIGHT in the Netherlands and the EBRD.

To facilitate access to finance the following path are as well important:

- Guarantee programmes that expand access to debt, thereby lowering the cost of financing;
- Special purpose credit lines or revolving funds to mitigate liquidity constraints in the banking sector and/or provide long-term credits to finance institutions;
- Expanding partnerships between financing sources and utilities, city agencies, and ESCOs, which have longstanding relationships with customers, to rapidly identify EE opportunities.

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## Definitions and glossary

Term	Definition
<b>energy efficiency (EE)</b>	means the ratio of output of performance, service, goods or energy, to input of energy (as defined by EED)
<b>energy efficiency improvement</b>	means increase in energy efficiency as a result of technological, behavioural and/or economic changes (as defined in EN 15900:2010)
<b>energy management system</b>	means a set of interrelated or interacting elements of a plan which sets an energy efficiency objective and a strategy to achieve that objective (as defined by EED)
<b>energy savings</b>	means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption (as defined by EED)
<b>final energy consumption</b>	means all energy supplied to industry, transport, households, services and agriculture. It excludes deliveries to the energy transformation sector and the energy industries themselves (as defined by EED)
<b>guarantee of energy efficiency improvement</b>	means commitment of the service provider to achieve a quantified energy efficiency improvement (as defined in EN 15900:2010)
<b>energy performance contracting (EPC)</b>	means a contractual arrangement between the beneficiary and the provider of an energy efficiency improvement measure, verified and monitored during the whole term of the contract, where investments (work, supply or service) in that measure are paid for in relation to a contractually agreed level of energy efficiency improvement or other agreed energy performance criterion, such as financial savings (as defined by EED)
<b>EPC provider</b>	means a natural or legal person who delivers energy services in the form of Energy Performance Contracting (EPC) in a final customer's facility or premises
<b>energy service provider /energy service company (ESCO)</b>	means a natural or legal person who delivers energy services or other energy efficiency improvement measures in a final customer's facility or premises (as defined by EED)

## Report on recommendations for action for development of EPC markets in Latvia



### energy service (ES)

the physical benefit, utility or good derived from a combination of energy with energy-efficient technology or with action, which may include the operations, maintenance and control necessary to deliver the service, which is delivered on the basis of a contract and in normal circumstances has proven to result in verifiable and measurable or estimable energy efficiency improvement or primary energy savings (as defined by EED)