



COMPARATIVE STUDY OF THE GAPS IN HOUSING REGULATIONS IN THE WESTERN BALKAN COUNTRIES



Energy Community Secretariat
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Background, Issues

- The cost of utilities in the residential sector is an important factor in housing affordability, population health, homelessness and residents well being.
- Residential housing stock, largely Multi-Apartment Buildings (MAB) are generally poorly maintained, energy inefficient, and present substantial opportunity for reducing the cost of utilities through energy savings.
- Current solutions to high cost of utilities involve too many “flat” subsidies, cross subsidies, grants, or soft loans, causing unsustainable drain of public funds and distortion of market
- Governments want to ensure affordable housing, eliminate/reduce subsidies; Commercial banks want to expand residential lending market; Industry wants to create jobs; Residents want to have affordable, nicer, more comfortable homes.

BUT

Implementation of energy efficiency to reduce the cost of living in multi-apartment buildings in South-East Europe is still slow

USAID Regional Activities in Energy and Infrastructure

Residential Energy Efficiency for Low Income Households (REELIH) -

Habitat for Humanity

- Pilot energy efficiency projects in multi-apartment buildings,
- Technical assistance in development and implementation of projects,
- Development and testing options for sustainable financing of energy efficiency investment in multi-apartment buildings.

Development of Regional Energy Markets (DREM) - Tetra Tech

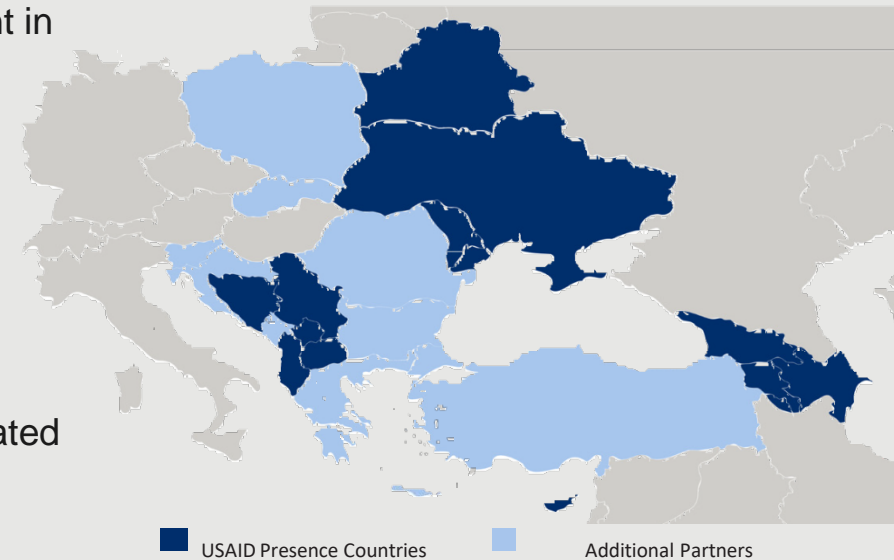
- Energy sector reform, utility management, environmental resource management
- Regional energy planning, trade and energy security, energy efficiency

Energy Technology and Governance Program (ETAG) - USEA

- Supporting establishment of competitive and transparent energy markets that are integrated with Europe
- Diversification of energy supply and investment in aging infrastructure, protecting critical infrastructure

Enhancing Stability and Technical Expertise in Energy Markets (ESTEEM) – NARUC

- Provides assistance in regulatory issues, developing guidelines, establishing regulator's role in promoting service quality
- Tariff design, capacity building

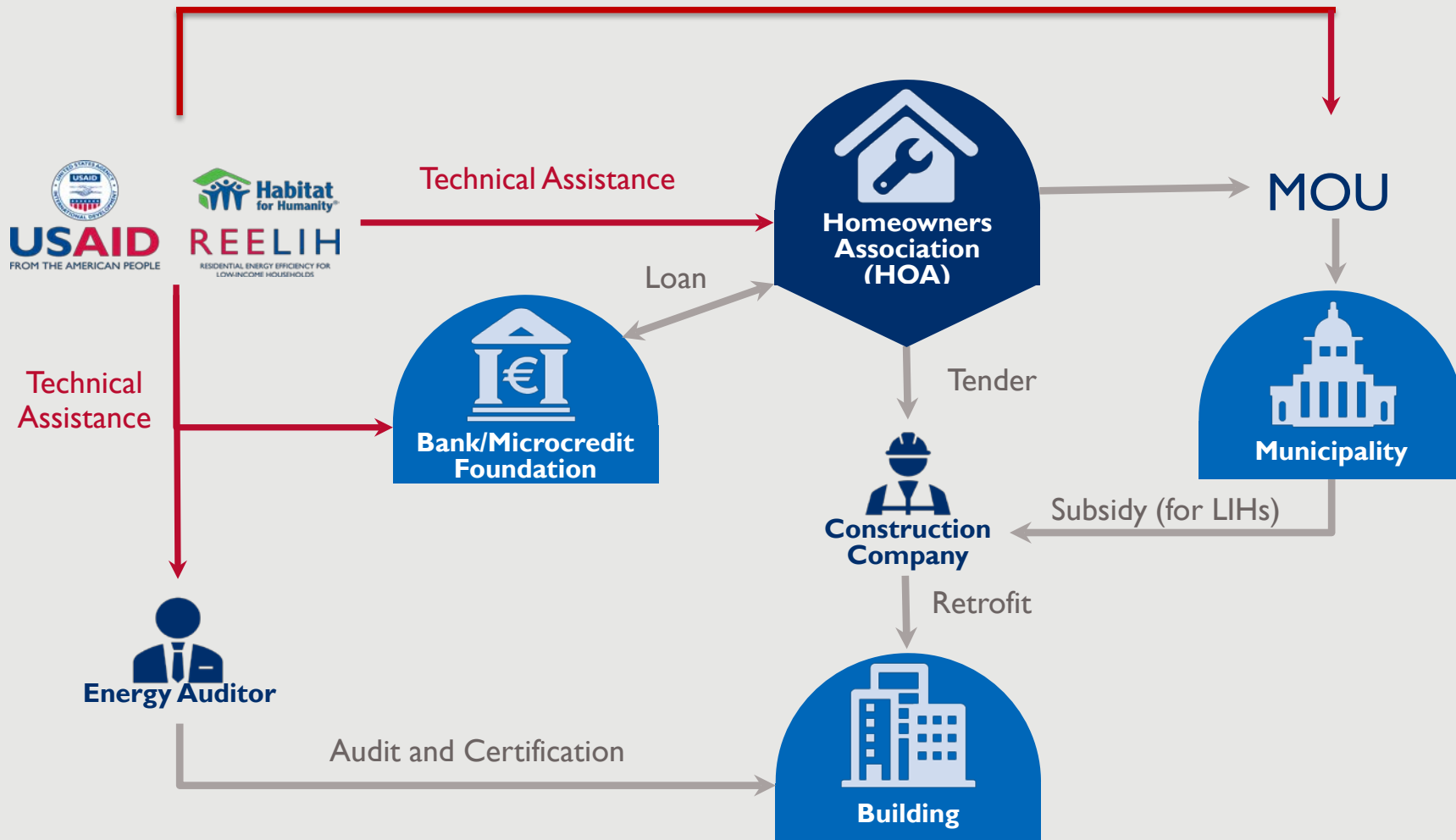


USAID Residential Sector Activities Principles

- Focus on necessary legislative and regulatory changes needed to improve management of the housing stock
- Commercially based approach to energy efficiency investment, limiting subsidies only to social assistance based on need
- Development of sustainable financing mechanism for energy efficiency, with manageable risk for banks and affordability for the borrowers.
- Practical, low risk, efficient implementation approaches

USAID commissioned gap analysis study to quantify issues hindering the implementation of energy efficiency investments in multi-apartment buildings

REELIHs approach to supporting investments in energy efficiency in MABs



USAID supports development of sustainable, commercially based financing mechanism for reducing energy poverty through investments in energy efficiency, reducing use of primary energy resource and its cost.

Study objective, outputs and process

- Gap analysis of housing sector in four Western Balkan Countries – **Bosnia and Herzegovina, Kosovo, North Macedonia, and Serbia** with focus on multi-apartment building and Home Owners Associations (HOAs) benchmarked against **Slovak Republic**
- Gap Analysis focused on three perspectives:
 - Housing legal and regulatory framework
 - Energy efficiency of building stock
 - Availability and accessibility of funds for investment
- Findings and recommendations of the interdisciplinary critical analysis provided in the study report: https://pdf.usaid.gov/pdf_docs/PA00X3QN.pdf

Main Stakeholders/Issues in Residential housing

Homeowners/HOAs



- Privatization gave households **ownership and responsibility** for managing real estate in all Western Balkans
- Mixed incomes of home owners, need for **low income safety net**
- Lack of resources, knowledge, economic incentives, prevailing passivity

Government



- Legislative changes related to housing sector needed for improved management of the housing stock are painfully slow, often derailed by contradicting interests
- **Tendency to solve housing affordability through energy subsidies** that are economically not viable and put extreme burden on state budgets
- Transition to full cost recovery tariffs, targeted need-based subsidies is considered a political risk

Management & Maintenance Companies



- Private maintenance companies perform required services, collect fees for routine maintenance and capital renovations
- Lack of resources for comprehensive renovation, poor enforcement of fees
- Limited institutional capacities in management, financing, energy efficiency

Banks, Funds, IFIs, Donors



- Banks recognize large, untapped residential housing market potential but **mostly unwilling to share risk** – view HOAs as risky clients
- National / municipal / green funds programs reach limited number of beneficiaries
- IFIs provide incentives in several schemes to advance lending, thus **distorting commercial market**
- Donors prefer working with public buildings
- Lack of sustainable financing scheme

Housing legal and regulatory framework

BENCHMARKED CRITICAL HOUSING POLICIES GOVERNING MAB OPERATION :

- Legal obligation to form an HOA or engage a Registered/Licensed Building Management (RBM) company
- Legal status and functioning of HOs/HOAs
- Voting rights of homeowners and decision-making process on renovation investment
- Method of creation of maintenance and reserve funds
- Legal obligation to pay fees and analysis of enforcement ability and practices
- Enforcement of Laws on housing and building management (LHBM) and related legislation in practice
- Bylaws that regulate management/maintenance of MABs
- Institutional infrastructure of the enforcement

Some of the Key Findings by Country

Bosnia and Herzegovina (RS and FBiH)

- A major legislative obstacle to implementing major renovation work on MABs is the legal requirement to have the unanimous (100%) consent of all home owners. (RS and FBiH)
- Enforcement of payment is complicated and lengthy, not always successful
- HOAs do not have a legal entity status in FBiH; HOAs are recognized as legal entities in RS
- Policies and strategies to improve the management of housing is not a political priority & social support for housing is marginal.

Serbia:

- Residential Building Management legislation recently enacted, not yet applied/enforced
- Establishment of HOAs cumbersome, time consuming due to legal gaps and inconsistency in registration of common property with other laws
- On the positive side - the law declares thermal rehabilitation as priority activity in public interest. Belgrade was the first to establish Budget Fund for Energy Efficiency

Some of the Key Findings, cont'd

North Macedonia

- Home owners may chose between registering HOA or engaging a Licensed Management Company (LMC)
- Low quality of Management & Maintenance services due to poor oversight of the work of LMCs
- Irregular payment to maintenance and reserve funds, weak enforcement and inconsistency of housing law with other laws
- Weak state policy and failure of state institutions to comply with housing policy goals
- Only 64% of MAB are managed, mostly by LMCs.

Kosovo

- Low number of HOAs, poor condition of MABs, high investment need (cca 300M USD)
- Significant legal gaps, especially the obligation to have 100% support of homeowners to establish HOA
- No obligation to form Legal Entity – most of the HOAs registered as NGOs - or hire Registered Building Manager.

Existing legal framework overview

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	Republica Srpska (RS)
Law	Condominium Act (1993)	Housing Law (2009)	Condominium Act (2016)	Condominium Act (2014)	Law on Maintenance	Law on Maintenance
HOAs Legal Entity	Yes	Yes	Yes	Yes, but very few exist	No	Yes
Control Mechanism	No, self-regulated sector	Yes, State Regulatory Committee & Municipal Inspectorate	Yes, Inspectorate	Yes, Inspectorate	Yes, Inspectorate	Yes
Laws Affecting MAB Management	75 Laws 31 Legal norms	9 Laws 13 By-laws	6 Laws 6 By-laws	2 Laws 5 By-laws	N/A	8 Laws
Impact Assessment	Yes	Initial	No	No	No	No

Group decision-making provisions overview

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Quorum for HOAs	50% + 1 (1 apt = 1 vote)*	50% + 1 % votes	50% + 1 (1 apt = 1 vote)	100% (1 apt=1vote)	50% + 1* mixed	50% + 1 (1apt=1vote)
Investment Decisions	50% + 1 Except adding new units	50% + 1 Except installing video surveillance	66% if HOA is borrowing, otherwise 50% + 1	50% + 1, Except redelegation	50% + 1	100%
Obligation to Pay**	All members, enforced	All members, but not enforced	All members	All members	Only those who vote	All members
Method of Securing Payment***	Legal, lien	Legal, execution, in conflict with other laws	Legal execution, obligation law	Legal, lien, but real collection against value Is 25%	Individual	Individual

Energy efficiency perspective

Energy-related support programs for building rehabilitation in line with the EU Energy Performance of Buildings Directive (EPBD) and Energy Efficiency Directive (EED)

- EE targets and building renovation strategies
- EE fund establishment
- EE obligation (EEO) scheme (utility-based residential EE investments)
- Building energy certification for existing MABs
- Possibility of ESCO/EPC in residential buildings
- Accreditation of energy auditors/building energy assessors and certifiers

Status of transposition of EPBD and EED into primary legislation and policy planning

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
	100%	42%	65%	80%	62%	
EED:						
NEEAP 1	Yes	Yes	Yes	Yes	Yes	Yes
NEEAP 2	Yes	Yes	Yes	Yes	No	No
NEEAP 3	Yes	Yes	Yes	Yes	No	No
NEEAP 4	Yes	Yes	No	No	No	No
Building Renovation Strategy	Yes	No	No	No	No	No
NECP	Yes	No	No	No	No	No
EPBD transposed: Law on EE in Buildings in Place	Act on EE of Buildings, 2005. Act on EE, 2014. Pending: Transposition of 2018 Directive recast.	Yes, Law on EE, 2020	Partially: 1. Law on Planning and Construction regulates EE in buildings; 2. Law on Efficient Use of Energy has some provisions on EE in buildings	Yes, Law on EE, 2018, replacing law of 2011	Yes, Law on EE, 2017	Yes, Law on EE, 2013

Institutional capacities for promotion of EE investments in buildings

	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Ministry	Ministry of Economy	Ministry of Economy	Ministry of Mining and Energy	Ministry of Economy and Environment	Federal Ministry of Spatial Planning	Ministry of Industry, Energy and Mining
Agency	Housing Agency	Energy agency	No, energy agency was closed	Kosovo Energy Efficiency Agency	No, but EE Law 2017 provides for creation of EE agency	No
Fund	State Fund for Housing Development	No	Not established. Operating a budget Fund	Kosovo EE Fund	Environmental Protection Fund	Fund for Environmental Protection
	130–160 million EUR/year		EUR 110 mln allocated in 2020	EUR 5–6 million /year on average	EUR 14.5 million	EUR 2.5 million
Share of Grant Financing for EE Funds	From 90% in 1990s to 10% at present	Not specified	100%	60%–70% from MCC-SEEK, ~20% from the municipalities	Grants and soft loans	
Investment Gap for EE in Buildings		EUR 302 million	EUR 1,636 million	EUR 83 million	EUR 783 million	

^[1] Estimated by Energy Community Secretariat's WB6 Energy Transition Tracker Report, July 2020.

Banking perspective

Non-legal obstacle to commercial lending to HOAs:

- Insufficient understanding of the residential housing market
- Risk perceptions among commercial bankers

Suggested approaches for removing such obstacles:

- Analysis of HOA risk and the banking sector's perception of risk
- Review of banking regulations, requirements and rules, monetary policy
- Establishment of guarantee mechanisms for lending to HOAs
- Development of commercial banking products targeting HOAs
- Analysis of products offered by development banks in the country and their availability to HOAs

Commercial lending to HOA

Risk and Risk Perception of HOAs by Banking Sector	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
There is legal a framework for HOAs	Yes	Yes	Yes	Yes	Yes	Yes
HOAs can legally borrow money from banks	Yes	Yes	Yes	Yes	No	Yes
HOAs have property subject for collateral	Yes	Some	Some	Yes	No	No
Existing demand of HOAs for credits	Yes	Yes	Yes	Yes	No	Yes
HOAs have credit history or financial data in last 2 years	Yes	No	No	No	Yes	Yes
Banks have understanding of HOA credit market; HOAs are in banks' business niche	Yes	Some	No	No	No	No
Have banks satisfied the market demand, and to what extent?	To large extent	No	No	No	No	Weak/No
Do banks grant loans to HOAs based on their creditworthiness or based on co-guarantees with members of HOAs/owners of property units?	Banks lending with guarantees, state support/ guarantees for refurbishment of the housing stock	Banks avoid lending to HOAs; there is some lending to HOAs with owners serving as co-guarantors	Banks consider households as clients; HOAs can only borrow if all households co-sign	Directly/co-guarantees	No loan products for HOAs	Each area of creditworthiness is considered, and co-guarantees are used
Any other remarks important for improvement lending process given from banking sector side?		Banks consider lending to NGOs in general (not only HOAs) risky	Banks reluctant to lend directly to HOAs, but would finance service companies for HOA retrofits	Banks are reluctant to start financing HOAs based on their creditworthiness	Without regulating the HOAs' legal status, banks' lending to HOAs is unlikely	Banks perceive HOA lending market too risks and have no perception of true market size

Analysis of provisioning requirement, rules and monetary policy and banking regulation

Guarantee Mechanisms for Lending to HOAs`	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Do guarantee schemes or guarantee funds exist in the country?	Yes, state guarantee and Development Bank	No	No	Yes	No	Yes, but limited
Level of development of existing guarantee mechanisms	The program started in 2000	Moderate; only institutional / donor-supported guarantee funds focused on economic development	Minor	Yes. Kosovo Credit Guarantee Fund	Weak	Weak limited funding targeting SMEs
Guarantee mechanism available	Yes	There are no existing guarantee schemes for HOAs	No, there is no guarantee mechanism	Guarantee Fund. KCGF supports private sector	FBiH credit guarantee fund still not functional	Up to 50% of loan covered by guarantee
HOAs have access to guarantees?	Yes	Under development	No	No	No	No
Are there any other initiatives for establishing a mechanism to ensure repayment of the loan to the HOAs or EE financing?	Yes	Partnership between Habitat Macedonia and two banks	Not for HOA; EE funds available on national and, to some extent, municipal level	No	No	No
Do HOAs have access to any subsidy funds for housing support, EE, etc.?	Yes	Subsidies from local governments/ municipal budgets	Yes, in some municipalities and in Vojvodina province	Millennium Foundation Kosovo (MFK) grant; Commercial bank loans supported by EBRD grant	Municipal subsidies for EE renovation loans; Limited cofinancing from UNDP, GIZ, and USAID for residential EE measures	Environmental Fund in RS grant cofinancing for energy audits in MABs. UNDP, GIZ and USAID, provided limited cofinancing for residential EE
Any initiatives to support development of guarantee schemes?	Completed	HFH- Macedonia guarantee fund to HOAs and RBM companies available upon request	No	No	No	No

Development banks' credit lines available to HOAs

Existing Commercial Banking Products Available to HOAs from Development Banks	Slovakia	North Macedonia	Serbia	Kosovo	Bosnia and Herzegovina	
					FBiH	RS
Availability of specialized loan products or credit lines to finance HOAs	Yes, since 1996, loans have been available from SHDF	No	No	No	No	No
Method for distribution of loans: Directly to HOA or by whole selling to financial institutions	State Guarantee and Development Bank (since 2000)	N/A	N/A	N/A	N/A	N/A
Availability of government and local communities funding for housing support and social funds through development banks	Yes	N/A	N/A	N/A	N/A	N/A
Projects by development banks/IFIs or credit lines connected to EE financing	Yes	Yes	N/A	N/A	N/A	N/A
Development banks' commitment to finance market failures in housing and EE, and access to some EU financial instruments	Yes	Yes	N/A	N/A	N/A	N/A
Preconditions and added requirements for EE financing (i.e., complex technical requirements and housing standards)	No	N/A	N/A	N/A	N/A	N/A
Any special conditions offered, i.e., lower interest rate, rebate on principal, technical assistance, etc.	Yes	N/A	N/A	N/A	N/A	N/A

Recommended actions on improving the regulatory framework

- ≡ Define HOAs as a legal entity,(or other legal status) enabling HOAs to access financing
- ≡ Establish clear and well functional Bylaws for HOAs, including simplifying decision making rules, rights and responsibilities,
- ≡ Define and enforce solo purpose of operation, assets and revenues, clear financial rules
- ≡ Ensure HOAs ability to enforce regular payment to maintenance and reserve funds and to expediently recover arrears
- ≡ Develop **social housing policy** provisions for low income, vulnerable households need-based support
- ≡ Continue reforms in providing legal requirements for **building energy certification**, building energy codes for renovated buildings, and engagement of **ESCOs and EPC** in residential EE investments

CONSIDER APPLYING BEST PRACTICES FROM OTHER COUNTRIES WITH SUCCESSFUL PERFORMANCE RECORD

Recommended actions on policy reform

- ≡ Develop policies and strategies to improve management and renovation of housing
- ≡ Create and offer specialized loan products/credit lines for investment in EE-integrated maintenance, retrofitting and structural upgrades
- ≡ Develop policy tools and support schemes for low-income households providing
 - Income-related, need-based subsidies for refurbishments
 - Social assistance for low-income households
- ≡ Develop building renovation strategies



Recommendations for: Technical assistance, institutional support, and capacity building

- Develop regulatory reform provisions with clear, specific implementation milestones
- Establish EE funds, housing agencies, or other institutional arrangements
- Establish/recruit institutions for supporting HOAs and banks through community groups, municipalities, NGOs, energy auditing / consulting groups
- Develop cadre of energy auditors and EE building design professionals
- Improve coordination among government, donors, and IFIs



Recommendation for: Raising awareness and promoting the concept of commercial financing for HOAs

- Raise HO awareness about taking full ownership for the maintenance and renovation of common parts of HOA buildings
- Raise awareness in the banking sector about the market potential for financing HOAs
- Establish a dialogue/platform between banks and HOAs to close the gaps in understanding on both sides
- Disseminate and promote information among key decision makers about best practices for financing.



Recommendations for: Developing commercial financing support

- Establish government supported loan guarantee program specifically for HOAs investment in building renovation
- Develop and introduce HOA credit lines offered by international development and local institutions specifically designed to support on-lending to HOAs
- Partially secure bank loans to HOAs by government grants to cover economically vulnerable groups



Recommended actions and next steps

Governments

Continue reform in housing, energy efficiency, banking regulations

Develop clear strategies in prioritizing and financing building renovation

Target public/municipal finance **for leveraging commercial EE lending** in Building renovation

Enroll (existing/new) public agencies in promotion and facilitation

Learn from **best practices:** *Slovakia, Romania, Poland, Croatia Hungary, Baltics*

Donors

Streamline technical assistance for policy reform
Strengthen the capacities of market players; particularly the HOAs for better creditworthiness

Help design tailor made support mechanisms, support in development, implementation and monitoring of high-quality projects in building EE renovation

Raise awareness of all players on the benefits of EE renovation

Seek targeted use of grants for improving bankability of investments, subsidizing socially vulnerable households

Seek pooled financing by multiple donors/IFIs

Financial Institutions

Provide affordable, tailor-made financing for building renovation to HOAs

Partner with government in setting up **guarantee facilities**

Require elimination of distortionary grant subsidies and aim for gradual commercialization of building EE investment finance

Work with central banks/treasuries to design flexible financing products (project finance, unsecured lending)

Partner with private sector (ESCOs) to manage and minimize risks

Thank you !

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