The *Saeima*1 has adopted and

the President has proclaimed the following law:

**Law on the Management of the Funds Created within the Framework of the General Programme “Solidarity and Management of Migration Flows”**

**Chapter I**

**General Provisions**

**Section 1. Terms Used in this Law**

The following terms shall be used in this Law:

1) **the** **Fund** – the European Refugee Fund (for the period 2008 to 2013) which has been created in accordance with Decision No 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’ and repealing Council Decision 2004/904/EC, the External Borders Fund (for the period 2007 to 2013) which has been created in accordance with Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme‘Solidarity and Management of Migration Flows’, the European Return Fund (for the period 2008 to 2013) which has been created in accordance with Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme ‘Solidarity and Management of Migration Flows’, and the European Fund for the Integration of Third-country Nationals (for the period 2007 to 2013) which has been created in accordance with Council Decision No 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme ‘Solidarity and Management of Migration Flows’;

2) **Fund management** – the activities related to the preparation, agreement, and approval of planning documents, the establishment of a Fund management and control system, the development and approval of the criteria for evaluating project applications, the selection and approval of project applications for the Fund, the implementation, control, audit, monitoring, and evaluation of the Fund projects;

3) **Fund project application** – an application (a completed form and the annexes thereto) submitted by a Fund project applicant in order to receive the financing necessary for the project from the Fund;

4) **Fund project** – a Fund project application which meets the criteria for evaluating the Fund project applications and which has been approved by the managing authority of the Fund or by the delegated authority;

5) **criteria for evaluating the Fund project applications** – the criteria by which the Fund project applications are evaluated and the decision on the approval or rejection thereof is taken;

6) **beneficiary of the Fund financing** – an institution of direct or indirect administration of the Republic of Latvia, a derived public person, another State institution, or a legal person governed by private law, the Fund project application submitted by which has been approved in accordance with the procedures laid down in this Law. The beneficiary of the Fund financing may also be the representation of such international organisation in the Republic of Latvia which operates in a field supported by the Fund (hereinafter – the international organisation);

7) **grant agreement**– a civil contract or agreement regarding the introduction of a Fund project entered into by the managing authority of the Fund with the beneficiary of the Fund financing;

8) **planning documents** – the multiannual programme of the Fund and the annual programme of the Fund.

**Section 2. Purpose of the Law**

The purpose of the Law is to ensure efficient, transparent management of the Funds in Latvia which conforms to the principles of financial management.

**Section 3. Scope of Application of the Law**

The Law shall determine the rights and obligations of the authorities involved in the management of the Fund and the beneficiaries of the Fund financing, the procedures for taking, contesting, and appealing the decisions of the authorities involved in the management of the Fund, and also the procedures for resolving disputes regarding the Fund financing allocated, and other matters related to the management of the Fund.

**Section 4. Allocation of the Fund Financing**

The submission of a Fund project application in accordance with this Law shall not create an obligation for the authority involved in the management of the Fund to allocate financing to the Fund project applicant.

**Section 5. Selection of the Fund Project Applications**

The selection of the Fund project applications may be:

1) open if an equal competition is taking place between the project applicants of the Fund regarding the approval of the Fund project application and the allocation of the Fund financing;

2) restricted if a limited range of the Fund project applicants is known in advance who are invited to submit a Fund project application. In this case all the Fund project applications which meet the criteria for evaluating the Fund project applications shall be approved and financed.

**Chapter II**

**Ensuring of the Fund Management**

**Section 6. Authorities Involved in Ensuring of the Fund Management**

(1) The Fund management shall be ensured by:

1) the following authorities involved in the Fund management:

a) the managing authority;

b) the delegated authority;

c) the audit authority;

d) the certifying authority;

e) the paying authority;

f) the management committee;

2) the beneficiary of the Fund financing.

(2) The Cabinet shall determine the managing authority, the audit authority, the certifying authority, and the paying authority and also, where necessary, the delegated authority and the obligations and rights thereof.

(3) In order to achieve the objective of this Law, the authorities involved in the management of the Fund, except for the management committee, shall issue the internal laws and regulations and cooperate with other authorities in accordance with the procedures laid down in the State Administration Structure Law.

**Section 7. Obligations and Rights of the Managing Authority**

(1) The managing authority shall be responsible for the Fund management and the efficiency of the implementation thereof.

(2) The managing authority has the following obligations:

1) to ensure the development of the planning documents;

2) to provide information to the society and to ensure publicity in matters related to the Fund projects;

3) to develop the criteria for the evaluation of the Fund project applications;

4) to ensure the announcement of the calls for proposals for the Fund project applications;

5) to ensure the evaluation and selection of the Fund project applications;

6) to ensure the supervision of the implementation of the Fund projects;

7) to ensure the inspection of the expenditures made within the framework of the Fund projects;

8) to ensure the preparation of the Fund progress, final, and evaluation reports;

9) to ensure the submission of planning documents, the Fund progress, final, and evaluation reports to the European Commission;

10) to ensure measures for assessing the implementation of the Fund.

(3) The managing authority has the following rights:

1) to propose and perform the control and audit of the introduction of the Fund;

2) to request information from the authorities involved in the Fund management and the beneficiaries of the Fund financing which is necessary for ensuring the management of the Fund.

(4) The managing authority shall ensure that the functions which it performs in accordance with this Law as the managing authority are separated from the other functions thereof.

**Section 8. Obligations and Rights of the Delegated Authority and Subordination of the Managing Authority and the Delegated Authority**

(1) The delegated authority shall fulfil part of the obligations of the managing authority. The obligations and rights of the managing authority referred to in Section 7, Paragraphs two and three of this Law may be transferred to the delegated authority, except for the obligation referred to in Section 7, Paragraph two, Clause 9 of this Law.

(2) The delegated authority shall contact the European Commission with the intermediation of the managing authority.

(3) The delegated authority, when performing the obligations specified thereto, shall be under the functional subordination of the member of the Cabinet to whom the managing authority is subordinate.

(4) In order to ensure efficient fulfilment of the obligations of the delegated authority, the managing authority may, if the delegated authority is not under its institutional supervision, in agreement with the institutionally higher authority of the delegated authority, issue binding internal laws and regulations to the delegated authority relating to the fulfilment of the obligations transferred thereto.

**Section 9. Obligations and Rights of the Audit Authority**

(1) The audit authority has the following obligations:

1) to carry out audits in order to ascertain whether the management and control systems created are effective;

2) to perform random checks on the expenditures of the Fund projects in order to ascertain the legality and accuracy of the expenditures included in the declaration of expenditures.

(2) The audit authority has the right to request information from the authorities involved in the Fund management and the beneficiaries of the Fund financing which is necessary for the fulfilment of the obligations specified in Paragraph one of this Section.

(3) The obligations of the audit authority shall not be fulfilled by the managing authority or the certifying authority. (4) The audit authority shall ensure that the functions which it performs in accordance with this Law as the audit authority are separated from the other functions thereof.

**Section 10. Obligations and Rights of the Certifying Authority**

(1) The certifying authority shall, within the framework of the Fund projects, certify expenditures before submitting a progress or final report to the European Commission.

(2) The certifying authority has the right to perform financial control and audits of the Fund projects.

(3) The certifying authority shall ensure that the functions which it performs in accordance with this Law as the certifying authority are separated from the other functions thereof.

**Section 11. Obligations and Rights of the Paying Authority**

(1) The paying authority has the following obligations:

1) to transfer financial resources received from the European Commission into the account of the managing authority;

2) to make payments on the basis of payment orders submitted by the managing authority and the beneficiaries of financing.

(2)The paying authority has the right to request information from the authorities involved in the Fund management which is necessary for carrying out the recording of the financial resources used in payments.

(3) The paying authority shall ensure that the functions which it performs as the paying authority in accordance with this Law are separated from the other functions thereof.

**Section 12. Management Committee**

(1) The management committee shall be the authority involved in the management of a collegial fund, which has been established in order to ensure the principle of partnership. It shall participate in the development of planning documents, the evaluation of the Fund projects, and the evaluation of the progress achieved.

(2) The management committee has the following obligations:

1) to approve the draft planning documents, and also the changes thereto;

2) to monitor the achievement of the objectives and results indicated in the planning documents;

3) to participate in the evaluation of the Fund project applications which have been submitted within the framework of the open selection of the Fund project applications;

4) to approve the final report to the European Commission on the implementation of the annual programme of the Fund;

5) to propose to the managing authority to take measures that increase the efficiency and usefulness of the use of the Fund financing.

(3) The management committee shall be chaired by a representative of the managing authority. The composition of the management committee shall include representatives with voting rights from the authorities the competence of which includes the relevant Fund matters, but representatives with advisory rights – from the certifying authority and the audit authority. The certifying authority and the audit authority shall have voting rights in relation to matters of technical assistance. If matters of the Fund concern the competence of the social partners, representatives of the management committee with advisory rights may be included in the composition thereof.

(4) The composition of the management committee shall be approved the head of the managing authority.

(5) The management committee shall operate according to the by-laws approved thereby.

**Section 13. Obligations and Rights of the Beneficiary of the Fund Financing**

(1) The beneficiary of the Fund financing has the following obligations:

1) to ensure the implementation of a Fund project according to a civil legal contract if the beneficiary of the Fund financing is a legal person governed private law or an international organisation;

2) to ensure the implementation of the Fund project according to the agreement regarding the introduction of the Fund project if the beneficiary of the Fund financing is an institution of direct or indirect administration of the Republic of Latvia, a derived public person, or another State institution;

3) to ensure accounting records separately for each project of the Fund;

4) to provide information on the implementation of the Fund project and to provide the representatives of the authorities involved in the Fund management and the European Commission with access to documents related to the implementation of the Fund project, and also the place of implementation of the relevant project.

(2) The beneficiary of financing has the following rights:

1) to receive the Fund financing in accordance with the procedures laid down in the laws and regulations governing the Fund management;

2) to receive the necessary information on the conditions for the use of the financing for the implementation of the Fund project.

**Section 14. Competence of the Cabinet**

In order to ensure the Fund management, the Cabinet shall determine:

1) the procedures for the development and approval of the multiannual programme and the annual programme of the Fund;

2) the requirements for the establishment of the management and control system of the Fund;

3) the procedures for the organisation of the call for proposals for Fund projects, the requirements for the beneficiaries of the Fund financing, the procedures for the preparation and submission of the Fund project applications and the criteria for the evaluation thereof, the procedures for the selection of the Fund projects, the procedures for entering into a grant agreement, and also the procedures for the implementation of the technical assistance activity;

4) the procedures by which financial resources for the implementation of the Fund projects in the State budget and the reimbursement of expenditures performed in the State budget are planned;

5) the procedures for the financing of the Fund projects and the making of payments;

6) the procedures by which the managing authority, the delegated authority, the audit authority, the certifying authority, the paying authority and the beneficiary of financing shall report on irregularities established in the introduction of the Fund, the types of irregularities, the cases where expenditures of the beneficiary of the Fund financing are recognised as ineligible;

7) the procedures by which the ineligible expenditures shall be recovered;

8) the procedures by which a progress report, a final report, and an evaluation report on the results and efficiency of activities co-financed by the Fund shall be prepared, approved, and submitted to the European Commission;

9) the procedures by which the financial control and audit of the Fund projects shall be performed and the authorities who carry out the abovementioned inspections or participate therein.

**Chapter III**

**Decisions of the Managing Authority and the Delegated Authority and the Contesting and Appealing Thereof**

**Section 15. Decisions of the Managing Authority and the Delegated Authority**

(1) The managing authority or the delegated authority shall take the decision on the approval or rejection of a Fund project application, and also the decision on the recovery of the allocated financing.

(2) The decision on the approval of a Fund project application shall be taken if it conforms to the criteria for evaluating the Fund project applications. This decision may also be taken provided that the Fund project applicant carries out the activities specified by the managing authority or the delegated authority so that the Fund project could be adequately prepared and implemented. The conditions in the decision shall be included and the fulfilment thereof shall be controlled in conformity with the Cabinet regulations regarding the procedures for the selection of the Fund projects. If any of the conditions included in the decision is not fulfilled, the Fund project application shall be deemed to have been rejected.

(3) The decision on the rejection of a Fund project application shall be taken if it does not conform to the criteria for evaluating the Fund project applications or if the available financing in the relevant Fund has ended.

(4) The decision on the recovery of the allocated financing shall be taken if the allocated financing has been disbursed to the beneficiary of the Fund financing but it has not been utilised in accordance with the requirements of laws and regulations or the provisions of the grant agreement.

**Section 16. Types of Decisions of the Managing Authority and the Delegated Authority**

(1) The managing authority or the delegated authority shall, depending on the legal status of the Fund project applicant, issue an administrative act or take an administrative decision.

(2) If a Fund project applicant is a legal person governed by private law or an international organisation, the decision of the managing authority or the delegated authority shall be an administrative act.

(3) If the submitter of the Fund project is an institution of direct or indirect administration of the Republic of Latvia, a derived public person, or another State institution, the decision of the managing authority or the delegated authority shall be an administrative decision. This may be contested but shall not be subject to appeal in a court.

(4) The administrative decision referred to in Paragraph three of this Section shall be issued in writing and it shall have the following parts:

1) the name and address of the managing authority;

2) the addressee – the Fund project applicant;

3) the determination of facts;

4) the justification of the decision;

5) a separate list of the legal norms applied (indicating also the Section, Paragraph, Clause, or Sub-clause of the law or regulation);

6) a decision on the approval, conditional approval, or rejection of the Fund project application;

7) the procedures for contesting the decision.

**Section 17. Deadlines for Taking a Decision**

The managing authority or the delegated authority shall take a decision on the approval, conditional approval, or rejection of a Fund project application not later than six months after the closing date for the submission of Fund project applications.

**Section 18. Contesting and Appealing of Decisions of the Managing Authority and the Delegated Authority**

(1) A Fund project applicant may contest and appeal the decisions referred to in Section 15 of this Law in conformity with the conditions of Section 16, Paragraph three of this Law. The decision taken by the delegated authority shall be contested in the managing authority.

(2) Contesting or appealing the decision shall not suspend its validity.

(3) An opinion on the fulfilment of the condition contained in the decision shall be contested and appealed according to the same procedures and within the same time limits as the decision for the fulfilment of the condition included in which the opinion has been prepared. The opinion on the fulfilment of the condition contained in the decision may also be contested and appealed separately from the decision containing the condition.

**Chapter IV**

**Procedures for Settling Disputes on the Allocated Fund Financing**

**Section 19. Procedures for Settling Disputes**

Disputes regarding the allocated Fund financing shall be settled in accordance with the procedures laid down in the Administrative Procedure Law, the Civil Procedure Law, and the laws and regulations regarding the recovery of expenditures not conforming to the Fund projects.

**Section 20. Recovery of the Allocated Funding**

(1) The decision on the recovery of the allocated financing shall be taken in the cases specified in Section 15, Paragraph four of this Law and in accordance with the procedures laid down in the Administrative Procedure Law if the beneficiary of the Fund financing may be the addressee of an administrative act in accordance with Section 16, Paragraph two of this Law and the enforcement may be directed against him or her.

(2) If the application of the procedures for the recovery of financing specified in Paragraph one of this Section is not useful, and also in cases where the conditions of Section 15, Paragraph four of this Law and Paragraph one of this Section are not applicable to the recovery of the allocated financing, the allocated financing shall be recovered or the dispute regarding the disbursement of financial resources or the continuation of the disbursement shall be settled by civil legal order.

(3) If the beneficiary of the Fund financing is an institution of direct or indirect administration, a derived public person, or another State institution, the allocated financing shall be recovered or the dispute regarding the disbursement of the allocated financial resources or the continuation of the disbursement shall be settled in accordance with the procedures stipulated by the Cabinet.

**Chapter V**

**Final Provisions**

**Section 21. Restrictions on Persons Involved in the Fund Management**

For persons who perform the duties of office in the authorities involved in the Fund management, the restrictions on commercial activity, income generation, and combination of offices, and also other restrictions and obligations are specified in the law On Prevention of Conflict of Interest in the Activities of Public Officials.

**Section 22. Right to Become Acquainted with Documents**

(1) A Fund project applicant is entitled to become acquainted with the materials for the evaluation of the Fund project application submitted thereby only after the decision has been taken on the approval or rejection of the Fund project application.

(2) A Fund project applicant shall not disclose information on the persons who are evaluating or have evaluated the Fund project application, except for the members of the evaluation commission, when becoming acquainted with the materials referred to in Paragraph one of this Section. Information on the members of the evaluation commission shall be available to the extent and in accordance with the procedures laid down in this Law and other laws and regulations.

**Section 23. Freedom of Information**

(1) The Fund project application, the Fund project, documents related to the evaluation of the Fund project and the taking of a decision in relation thereto shall be restricted access information.

(2) At least the following information shall be considered to be generally available:

1) the beneficiary of the Fund financing (name and legal address);

2) the name of the Fund project;

3) the amount of the allocated Fund financing;

4) the activity provided for in the planning document within the framework of which the Fund financing has been allocated;

5) the place of implementation of the Fund project;

6) a summary of the activities to be carried out within the framework of the Fund project.

(3) The information referred to in Paragraphs one and two of this Section shall be available in the amount and in accordance with the procedures laid down in the Freedom of Information Law after entering into effect of the decision referred to in Section 15, Paragraph two or three of this Law on the Fund project application.

(4) Information on the persons who are evaluating or have evaluated a Fund project application, except for the members of the evaluation commission, shall not be disclosed. Information on the members of the evaluation commission shall be available to the extent and in accordance with the procedures laid down in this Law and other laws and regulations.

**Section 24. State Fee when Applying to Court**

The managing authority, the delegated authority, the paying authority, the audit authority, and the certifying authority shall not pay the State fee when applying to a court regarding a contractual dispute.

Transitional Provision

The Cabinet shall, by 31 December 2009, issue the regulations provided for in this Law. Until the date of the coming into force of the abovementioned regulations, but not longer than until 31 December 2009, the following Cabinet regulations shall be applicable, insofar as they are not in contradiction with this Law:

1) Cabinet Regulation No. 167 of 10 March 2008, Procedures for the Implementation, Management, Control, and Supervision of the Funds of the Framework Programme for Solidarity and Management of Migration Flows for the Period 2007 to 2013;

2) Cabinet Regulation No. 425 of 10 June 2008, Procedures for the Implementation of the Programme for Solidarity and Management of Migration Flows for the Period 2007 to 2013, the External Borders Fund, the European Return Fund, and the European Refugee Fund Project Selection and Activities of Technical Assistance.

The Law has been adopted by the *Saeima* on 2 April 2009.

President V. Zatlers

Rīga, 15 April 2009