

## Framework on Private Sector Engagement

<b>Issued in:</b>	May 2015. Updated: March 2019
<b>Issued by:</b>	Private Sector Engagement Department
<b>Approved by:</b>	Management Executive Committee
<b>Purpose:</b>	To outline key principles and considerations, and provide a framework to guide the Global Fund's engagement of the private sector for resource mobilization

### 1. Introduction & Framework Purpose

#### 1.1 Introduction

The private sector was a founding partner of the Global Fund, since 2002. It is a growing contributor of financial resources, as well as an effective partner providing non-financial (in-kind) support to Global Fund programs around the world. The private sector has its own seat as one of the ten voting donor seats at the Global Fund Board.

Looking forward, the Global Fund believes engagement with private sector partners is a vital part of increasing impact, increasing resources and developing innovative solutions to scale up the fight against AIDS, tuberculosis and malaria. Partner types are defined in section 2 and include corporations, private foundations, those involved in third party fundraising and High Net Worth Individuals.

To maintain the integrity of its operations and brand, the Global Fund needs to ensure that contributions are derived from legitimate sources and reputable private sector partners that subscribe to the principles of the Global Fund. In addition, it is important to ensure that partners or groups of partners do not have undue influence on decisions made by the Global Fund through strong internal processes and a core principle of transparency. Any breaches, whether perceived, potential or actual, may diminish public confidence in the Global Fund and may even affect the performance of Global Fund projects and programs.

The Global Fund recognizes the need for a strong and well-implemented risk management approach and associated procedures that will help to ensure the benefits of partnerships are recognized in the context of appropriate risk assessment. This approach will also:

- Improve fairness and transparency in decision making processes;
- Improve trust and confidence among key stakeholders and the general public; and
- Protect the reputation and integrity of the Global Fund and associated organizations.

#### 1.2 Framework Purpose

This Framework gives guidance on the Global Fund's approach to partnerships with the private sector and outlines accountabilities governing private sector engagement for resource mobilization. It recognizes the need to identify the risks of private sector engagement and balance these against the expected benefits. It will:

- Support the Global Fund in establishing significant and impactful private sector partnerships that are relevant and consistent with the principles of the Global Fund's approach;
- Enhance transparency and facilitate communications with prospective private sector partners;
- Ensure that interested stakeholders within and external to the Global Fund are consulted as appropriate; and
- Enable relationship managers to apply risk controls and monitoring at a level proportionate to each private sector partnership.

The Framework is an update to, and therefore replaces: the Private Sector Engagement Guidance Note on Screening and Risk Management (February 2016); the Global Fund Partner Screening Guidelines (March 2011)<sup>1</sup>; Private Sector Engagement & Avoidance of Conflict of Interest Guide (September 2013)<sup>2</sup>; and Private Sector Engagement Training Guide on analysis, risk management & conflict of interest avoidance (October 2013).<sup>3</sup>

## **2. Types of Private Sector Partners and Contributions**

### **2.1 Types of Private Sector Partners**

There are many types of potential private sector partners<sup>4</sup>. The principle types of partners considered under this policy are:

- Corporations - refers generally to a company or group of people authorized to act as a legal person and recognized as such in law. These are commercial enterprises, either publicly listed or privately owned, that are intended to make a profit for their owners. They typically operate in a regulated legal compliance and financial environment (particularly if they are publicly-listed).
- Private Foundations - refers to private non-profit entities such as foundations and trusts, whose assets are provided by donors and whose income is spent on socially useful purposes. Such entities typically operate in a similar environment as companies when it comes to operating standards in developed countries but the legal, bureaucratic, and political framework for foundations and trusts in the developing world tends to be more varied.
- Individuals - refers primarily to High Net Worth Individuals (HNWIs)<sup>5</sup>. Partnerships with such individuals and their families are typically focused on philanthropy, through individual gifts, family foundations or other vehicles such as donor advised funds.

### **2.2 Third Party Fundraising partners**

Refers to partners that undertake fundraising activities with third parties, such as consumers or the public, for the benefit of the Global Fund. Examples include the Global Fund's engagement with (RED), M2030 and Goodbye Malaria. Such third party partners can include private sector entities such as corporations, not for profit companies and professional groups, as well as non-private sector entities such as Non-Governmental Organizations (NGOs), community organizations, civil society groups and networks, and faith-based organizations.

<sup>1</sup> Document GF/FAC/16/06, distributed to the Finance & Audit Committee at its 16th Meeting on 22-24 March 2011

<sup>2</sup>[https://www.theglobalfund.org/media/6022/core\\_privatesectorengagementandavoidanceofconflictinterest\\_guide\\_en.pdf?u=636679305940000000](https://www.theglobalfund.org/media/6022/core_privatesectorengagementandavoidanceofconflictinterest_guide_en.pdf?u=636679305940000000)

<sup>3</sup> Approved by the Management Executive Committee, 28 October 2013

<sup>4</sup> Corporations, Private Foundations and High Net-Worth Individuals are hereafter referred to as "private sector partners"

<sup>5</sup> Defined as individuals having investable assets of US\$1 million or more, excluding primary residence, collectibles, consumables and consumer durables

The PSE Framework and associated procedures will be applied where partnerships with these entities are intended to mobilize resources.

### 2.3 Types of contributions

- Financial Resources: The Global Fund mobilizes financial contributions to scale up the fight against the three diseases. The Amended and Restated Policy for Restricted Financial Contributions<sup>6</sup> permits private sector partners and a limited number of authorized public mechanisms, to make restricted financial contributions to the Global Fund. These contributions can be notionally earmarked to a grant (i.e. such contributions do not increase the Board-approved upper-ceiling of funding for a grant), or contributions can fund components listed on the UQD register (i.e., deemed technically sound and strategically focused by the TRP), which result in additional funds and activities for an already Board-approved grant.<sup>7</sup>
- Non-financial or in-kind partnerships that support the Global Fund and/or its grant recipients: Non-financial support can include, for example: provision of pro bono expertise and/or services to support capacity building initiatives and generate performance efficiency and/or effectiveness improvements to the Global Fund Secretariat and/or grant recipients (either directly by the partner's employees or through funding third parties to provide such expertise); advocacy support, such as raising awareness and encouraging behavioral change on health issues among employees, customers and business partners in line with the Global Fund's mission; donations of non-health products; among others.
- In-kind donation of Non-Health Products: In-kind donations of non-health products can be accepted, subject to compliance with internal requirements<sup>8</sup> that ensure the Global Fund's objectives and interests are not compromised as a result.
- In-kind donation of Health Products: The Board has determined the Secretariat shall not accept in-kind donations of health products<sup>9</sup>.

## 3. Principles, Benefits and Risks of Engagement

This Framework provides a firm basis for enhancing private sector engagement through the lens of a clear set of principles, and serves as an instrument for identifying the risks and balancing them against the expected benefits, while protecting and preserving the Global Fund's integrity, reputation and mandate for the elimination of AIDS, TB and Malaria. Global Fund staff are required to adhere to the Framework and its associated procedures.

### 3.1 Principles

The Global Fund strives to identify opportunities for shared value creation and enters into partnerships that are consistent with the following guiding principles:

- They demonstrate a clear potential benefit to the Global Fund's mandate and general program of work.
- The partner has an alignment with the Global Fund's mission and is committed to reducing the health and economic impact caused by the three diseases.
- The engagement supports the Global Fund's strategic priorities and complies with all its policies and guidelines.

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<sup>6</sup> Approved by the Global Fund Board in May 2017 under Board decision point GF/B37/DP08 and set forth in Annex 1 to GF/B37/04

<sup>7</sup> See Amended and Restated Comprehensive Funding Policy for further details

<sup>8</sup> See GF/B18/DP05 and GF/B20/DP16

<sup>9</sup> See GF/B18/DP05

- The engagement will be conducted on the basis of transparency, openness, inclusiveness, accountability, integrity and mutual respect.
- The structure of the engagement will protect the Global Fund from any undue influence and will not compromise the Global Fund's integrity, independence, and credibility.
- The engagement will be effectively managed, including by mitigating potential conflicts of interest and other forms of risks to the Global Fund.

### 3.2 Benefits

Benefits arising from such engagements can include:

- The financial and non-financial contributions of the private sector to support the mandate of the Global Fund.
- The influence that the Global Fund can have on private sector actors to enhance their impact on the Global Fund's mandate and global public health or to influence the social, economic and environmental determinants of health.
- The leadership and influence that the private sector can bring to support the awareness, visibility and financing of the Global Fund's mandate.

### 3.3 Risks

These benefits outlined above must be weighed against the potential risks of engagement. These need to be effectively managed and, where appropriate, avoided. Potential risk areas include (non-exhaustive):

- Reputational risk: where the partnership has the potential to impact negatively on the reputation, integrity or credibility of the Global Fund or its grant implementers. Examples include: questionable partner business practices or behaviors; conflicts of interest; industry or partner type-specific issues; partnership being leveraged by the partner to serve its interests with limited benefits for the Global Fund; partnership conferring an endorsement of the partner's name, brand, product, views or activity; whitewashing of a partner's image through engagement with the Global Fund.
- Financial risk: where the partnership has the potential to impact negatively on the Global Fund's work linked to issues with its financial contribution. Examples include: contribution default (non-payment or delay); currency exchange risk; appropriate balancing of Global Fund and partner financial contributions to grants.
- Program Effectiveness risk: where an in-kind partnership has the potential to negatively affect the performance of grants and/or grant implementers. Examples include: undue or improper influence exercised by a private sector partner; non-delivery of in-kind services; marginal or no impact of the intervention; lack of country support; lack of scale up; non-sustainability of donated products or services; captive solutions.

Engagement with the private sector is underpinned by a comprehensive risk management process with clear roles and responsibilities for decision making. Risk screening will include assessment against a comprehensive set of criteria, as well as additional criteria specifically relevant for particular partnerships. Examples of core assessment areas include:

- Business policy and practice (e.g. appropriate marketing policy, sanctions lists, bribery, fraud, collusion, corruption, money laundering, tax avoidance, terrorist financing, labor rights);
- Political exposure;
- Environmental policy and practice;

- Human rights and gender policy and practice;
- Privacy and data security (where relevant for partnerships).

Mandatory due diligence processes assess the fit with the principles described above, as well as risks associated with each prospective partnership.

### **3.4 Excluded sectors**

Based on these principles and risk categories the Global Fund will exclude cooperation with the following sectors:

- Tobacco
- Weaponry

Any business that is directly involved in tobacco or weaponry shall be excluded as a potential partner<sup>10</sup>.

### **3.5 Private sector partnerships requiring particular caution**

The Global Fund takes particular caution when considering engagement with private sector actors whose policies or activities are negatively affecting human health, including those related to both infectious and non-communicable diseases, and their respective determinants.

In these situations, as for other engagement proposals, a case-by-case assessment is conducted in accordance with this Framework.

## **4. Avoidance of Conflict of Interest**

### **4.1 Conflict of Interest**

In the partnership context, a conflict of interest occurs when a prospective or existing private sector partner of the Global Fund could use their position to advance their personal interests, the interests of an institution with which they are affiliated<sup>11</sup>, or those of a close associate<sup>12</sup>, in a way that disadvantages or excludes others or is otherwise detrimental to the overall effectiveness of the Global Fund's programs.

The Global Fund takes a broader view of the ethics of its partnerships that extends beyond just the strict definition of conflict of interest. The contribution should be made in good faith and the private sector partner should not seek to utilize their position as a partner with the Global Fund, their relationship with the Global Fund, or the knowledge and information they have received in connection with their relationship with the Global Fund to derive direct commercial advantage related to the Global Fund's activities.

Examples of conflicts of interest include when an external party makes an offer of support to:

- Influence Global Fund decision-making or seek a favorable business relationship with the Global Fund.

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<sup>10</sup> Where a company has an identified interest (in the form of subsidiaries or an ownership stake) in the abovementioned sectors the Global Fund will take particular caution. It shall also be excluded, if 1) the revenue generated from the above mentioned sectors is more than 5% of the overall revenue of a company; or 2) it has significant influence or control of the operations of the subsidiaries.

<sup>11</sup> A person is affiliated with an institution if they are an employee or volunteer, or have a financial interest, or a technical/governance role within that institution.

<sup>12</sup> A close associate may be a family member, friend, business partner, professional colleague of the individual in question.

- Obtain favorable business relations with a party involved in the Global Fund's activities, including: Principal Recipients, Sub-Recipients, LFAs, or suppliers of products.
- Imply an endorsement by the Global Fund of their products or services.

The Global Fund also recognizes that there are significant risks associated with the perception of conflict of interest that can have impact on the Global Fund's reputation.

## **4.2 Material Interest**

Each prospective private sector partner is required to provide adequate disclosure of any material interests that may place the various roles of the partners in conflict or result in reputational, financial or programmatic damage due to perceptions of undue influence of the partner on the Global Fund or its grant recipients.

A material interest includes, but is not limited to, the following:

- Being a staff member or member of an organization or institution that is a Principal Recipient, Sub-Recipient or other Implementing Partner funded by Global Fund grants.
- Being a party to a contract, or directly involved in a transaction, for the provision of goods and services to an organization funded by Global Fund grants.
- Having a significant financial interest in an entity that is involved in a contract or transaction for the provision of goods and services to an organization funded by Global Fund grants, through being an owner, shareholder or employee.

## **5. Disclosure Requirement**

### **5.1 Duty to Disclose**

Partners must disclose any material conflicts of interest or breaches of the principles detailed above during partnership discussions and also during the term of the partnership. Where clear breaches or conflicts of interest are identified, the Global Fund will take appropriate action, including rejecting the partnership or contribution. Such measures may also be applied for perceived conflicts of interest. On an ongoing basis existing partners are required to disclose any material interest or issue that could lead to a conflict of interest or a breaching of the principles of the partnership.

### **5.2 Failure to Disclose**

If the Global Fund learns that a private sector partner failed to disclose a material interest or issue (as defined by the Global Fund's disclosure requirements) at the time the relationship between the Global Fund and the entity was established:

- The Global Fund should inform the entity of this fact and provide it with an opportunity to respond; and
- Where there is confirmation of a failure to properly disclose, the Global Fund will take the most appropriate course of action including, if needed, ending or revising the relationship with the entity and a public announcement to that effect.

## **6. Key Roles and Responsibilities**

**6.1. The Private Sector Engagement Department ('PSED'):** responsible for application and compliance of this engagement framework and due diligence procedures, and regular monitoring and tracking of partnership risks. The Head of External Relations co-chairs the Private Sector Engagement (PSE) Committee.

**6.2. The Ethics Office:** Responsible for overseeing due diligence including those related to private sector partner disclosures, as well as monitoring and supporting risk management practices by PSED. The Ethics Officer co-chairs the PSE Committee.

**6.3. Legal Department:** Responsible for advising on the Global Fund framework applicable to proposed private sector partnerships and risks (including non-compliance risk), and negotiating and advising on contractual commitments, amendments, addendums.

**6.4 Communications Department:** Responsible for advising, developing and, implementing communication strategies relating to private sector partnerships, including any risk mitigation plans to minimize reputational risks.

**6.5 Risk Management Department:** Responsible for assessing and advising on institutional-level risks and relevant risk mitigation plans relating to private sector partnerships.

**6.6 Finance Department:** Responsible for advising on finance-related risks for private sector partnerships and advising where appropriate on related risk mitigation measures.

**6.7 Grant Management Division:** Key stakeholder in determining the value and relevance of the prospective partnership within country context and priorities. Responsible for assessing country-specific risks for partnerships that involve country stakeholders, e.g. for partnerships that include restricted financial contributions, and/or service and in-kind support to grant recipients.

**6.8 Community, Rights & Gender Department:** Responsible for advising on risks for private sector partnerships relating to community impact and engagement, human rights and gender equality, and advising where appropriate on related risk mitigation plans.

**6.9 Other Key Stakeholders:** Following the initial screening and risk assessment, the PSED and/or Ethics Office may involve other stakeholders depending on the nature and risk profile of the partnership. Typically, these stakeholders include the Technical Advice and Partnerships Department; Sourcing Department; and Political & Civil Society Advocacy Department.

**6.10 The Private Sector Engagement Committee:** consists of permanent representatives from: External Relations; Legal; Ethics; Communications; Risk Management; Finance; Grant Management; and Community, Rights & Gender departments. Representatives from other departments are involved when relevant (6.9). The Committee is informed of all partnerships, specifically assesses and advises on private sector partner engagement cases that are associated with a medium or high level of risk.