

## Toward a Pooled Fund for Community Support during Large-Scale Investments

Communities affected by large-scale investments are often under pressure to conclude deals they do not fully understand and that do not safeguard their rights and interests. Without support, they risk losing access to the land and resources that are critical for their livelihoods. Targeted support can help communities to overcome imbalances in power and information access throughout the investment life cycle. Yet lack of resources limits communities' ability to access support and is often an existential threat to the frontline organizations that support them.<sup>1</sup>

Building on CCSI's research on financing solutions and Namati's experience advocating for a community justice fund in Sierra Leone, we are exploring the concept of an independently administered **basket fund for community support** as a promising innovation to ensure communities affected by investment are able to access assistance. The fund would collect financial contributions, including from the private sector, and then pay out grants for local communities to obtain independent legal and technical support to engage in shaping decisions about investments. A basket fund could tap into new sources of funding, ensuring communities across the world are able to access the resources needed to engage effectively with large-scale investment projects. At the same time, it would set progressive norms for development finance by securing concrete commitments to robust community engagement in investment processes. By addressing the challenge of meaningful engagement between investors and communities, a fund for community support could complement and build on promising efforts to establish remedy funds to address project impacts.<sup>2</sup>

We aim to collaboratively design recommendations for a financing mechanism that can cover the range of services communities need throughout the investment life cycle – from negotiations to grievance redress to project closure at the end of an investment. As we build out the idea, we will engage grassroots organizations that support communities and leading organizations working on international accountability to co-design key operating principles. We hope to work collectively to secure initial contributions and develop a pilot to test out the funding mechanism.

### Ensuring communities can access support

Even businesses operating in good faith struggle to ensure meaningful community engagement in their due diligence, consultation and negotiation, ongoing monitoring, and grievance redress processes. Communities often need technical support to access and understand information,

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<sup>1</sup> In a 2019 survey of members of the Legal Empowerment Network, 73% reported having to make significant cuts or close programs for community support due to lack of funding.

<sup>2</sup> There are currently efforts to establish remedy funds within the IFC and the African Development Bank. These funds would be managed by the institution and would support remedial action when noncompliance by companies harms communities or the surrounding ecosystem.

deliberate collectively, and participate in investment-related processes as an equal counterparty. Companies have experimented with directly hiring experts for communities. But such arrangements bring both real and perceived risks of undermining the independence of advocates and support providers. Businesses have an important role to play in financing community support, but care is needed to make sure legal and technical support responds to community needs and remains directly accountable to them.

A basket fund for responsible investment is a dedicated collection of money from multiple sources that is paid out as grants to pay for independent technical and legal support to communities affected by investment. A basket fund can receive contributions from proponent companies, their buyers, commodity traders, financial institutions, investors, and other private sector actors. Philanthropic and aid donors can also contribute funds—to help establish the fund itself or as a contribution to the collection of funds held by the basket fund, or both. The funds would be managed by an existing or newly established third-party entity to help ensure independence and credibility.

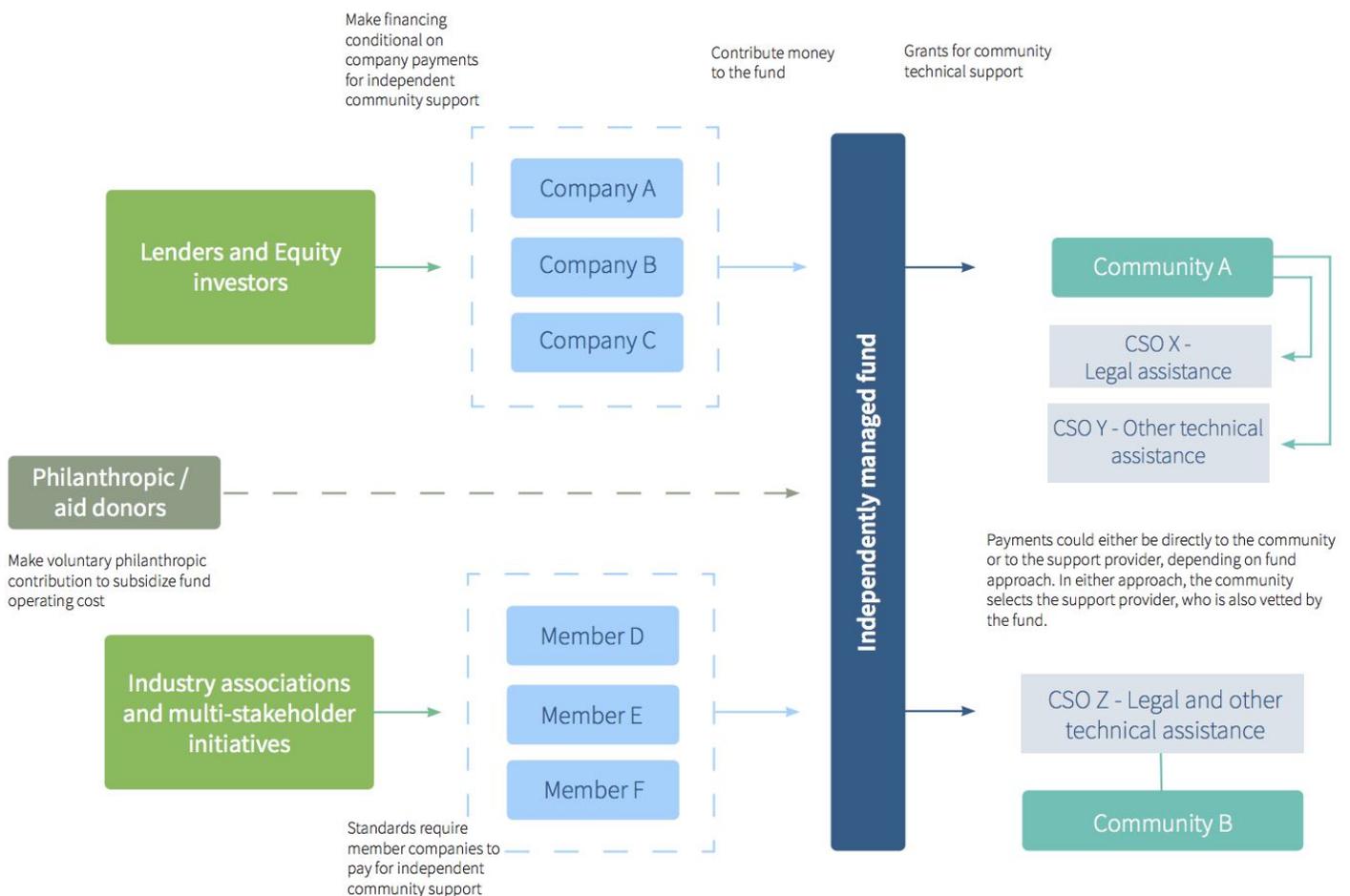
A basket fund offers the potential to leverage money from companies and investors while minimizing their actual and perceived influence over communities and support providers. It unlinks contributions and grants for legal and technical support by pooling funds from multiple sources and having a third party entity administer payments. While the concept is promising, there are a number of design issues to address in order to ensure independence and easy access to funding for communities and grassroots organizations.

### **How would a basket fund operate?**

- A **basket fund** receives payments from operating companies and disburses grants to communities or support providers. Contributions from multiple companies are pooled and channeled through an independent institution with transparent, accountable governance. By delinking company contributions from grants for community support in a specific site, the structure mitigates the risk of companies exerting undue influence on support providers.
- **Operating companies** set aside a fraction of their operating budget to **pay** into the independently managed fund. The contribution amount would be determined benchmarked against the costs of community support. A wholesale approach may be the best way to secure initial contributions, for example a DFI requiring its portfolio of companies in a particular region or industry to contribute or an investor association agreeing that some of its members will participate.

- Investors and lenders can require** operating companies to ensure independent community support throughout the project lifecycle as a condition of their investment or loan. This can help financing institutions to meet their existing commitments (e.g. IFC performance standards, Equator Principles, etc). Alternatively, **industry associations and multi-stakeholder initiatives** (e.g. the Forest Stewardship Council) could require member companies to ensure independent community support as part of their ESG commitments and certification standards.
- Communities** determine their needs and select **support providers** to partner with. They would then request a grant from the basket fund to cover costs. Grants could cover a wide range of support, including legal and scientific assistance, across all stages of the investment life cycle.

## Basket fund for community technical support



## What Next?

We are reaching out to civil society organizations who support communities affected by investments to assess the feasibility of a basket fund and identify important design considerations. In particular, we are seeking to understand:

- The types of support and level of funding required to meet community needs
- Key operational considerations for the basket fund in order to ensure frontline organizations and community groups can access funding (including mechanisms for protecting independence)
- Potential host institutions capable of maintaining transparent and accountable governance that balances the needs of communities, civil society organizations, and contributors to the fund
- Possible synergies with existing campaigns and reform efforts for corporate accountability and development finance

Through a process of co-design with frontline organizations we will develop a set of concrete recommendations for how a fund could most effectively meet communities' needs and match the operating realities of grassroots organizations. For more information, contact:

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**Namati** ([namati.org](http://namati.org)) is dedicated to putting the power of law in the hands of people. We train and deploy community paralegals who empower people to understand, use, and shape the law. The Legal Empowerment Network, which Namati convenes, is made up of over 2,000 groups and 8,000 individuals from every region in the world. They learn from one another and work together to bring justice everywhere.

The **Columbia Center on Sustainable Investment** ([ccsi.columbia.edu](http://ccsi.columbia.edu)), a joint center of Columbia Law School and the Earth Institute at Columbia University, is the only university-based applied research center and forum dedicated to the study, practice, and discussion of sustainable international investment.