Governance Guidelines for the Private Sector Constituency to the Board of the Global Fund to Fight AIDS, Tuberculosis and Malaria

Last Amended as of May 2018
# TABLE OF CONTENTS

1. **Purpose of the Guidelines** .......................................................................................... 1

2. **Guiding Principles on Governance** ........................................................................... 1

3. **Private Sector Constituency** ...................................................................................... 1
   3.1 Private Sector Mission ............................................................................................ 1
   3.2 Private Sector Constituency Composition ................................................................ 1
       3.2.1 PSC Advisory Group ...................................................................................... 2
       3.2.2 PSC Affiliate Members ................................................................................... 2
   3.3 Constituency Leadership .......................................................................................... 2
       3.3.1 Selection of the Board Member and Alternate Board Member ......................... 2
       3.3.2 Selection of the Focal Point ............................................................................ 4
   3.4 Advisory Group Purpose and Composition .............................................................. 5
   3.5 Advisory Group Formation ...................................................................................... 6
   3.6 Private Sector Affiliate Membership ...................................................................... 6
   3.7 Internal Task Forces .............................................................................................. 6
       3.7.1 Task Force Purpose ......................................................................................... 6
       3.7.2 Expectations of Task Force Members ............................................................... 7
       3.7.3 Representation ............................................................................................... 8

4. **PSC Attendance at global fund board meetings** ........................................................ 8
   4.1 PSC and Global Fund Bi-Annual Meeting Schedule ............................................... 8
   4.2 Board Delegation Composition and Participation Requirements ............................ 9
   4.3 Allocation of Badges to Official Delegation Members .............................................. 10

5. **Constituency Working Processes** ............................................................................ 10
   5.1 Communication within the Constituency ................................................................ 10
   5.2 Development of Constituency Positions ................................................................ 11
   5.3 Constituency Engagement in Global Fund Committees .......................................... 11
       5.3.1 Selection of Private Sector Nominees to Global Fund Committees and Working
            Groups .................................................................................................................. 12

6. **Conflict of Interest Policy** ....................................................................................... 13
   6.1 Definition ............................................................................................................... 13
   6.2 Principles .............................................................................................................. 13
   6.3 Procedures ............................................................................................................ 14
   6.4 Annual Statement .................................................................................................. 15
   6.5 Oversight .............................................................................................................. 15

7. **Annual Compliance Statement** ................................................................................ 15

8. **Annexes** ............................................................................................................... 16
   I. Global Fund Guidelines on Constituency Process
   II. Advisory Group Conflict of Interest Assessment Form and Declaration
   III. Policy on Ethics and Conflict of Interest for Global Fund Institutions
   IV. Current Private Sector Advisory Group and Affiliate Members
   V. Current PSC Task Forces and Membership
   VI. PSC Member Code of Conduct
   VII. Compliance Guidelines for PSC Meeting Attendees
   VIII. PSC Leadership Election Process

---

_Last Amended as of May 2018_
1. PURPOSE OF THE GUIDELINES

These Governance Guidelines are developed to promote the transparent and representative governance of the Private Sector Constituency to the Board of the Global Fund to Fight AIDS, Tuberculosis and Malaria. These guidelines aim to ensure effective Private Sector engagement with the Global Fund, balanced representation of the Private Sector on the Global Fund Board and the advancement of the Private Sector strategy with the Global Fund, its stakeholders and Global Fund programs at country level.

2. GUIDING PRINCIPLES ON GOVERNANCE

The following guiding principles serve as a foundation for the governance of the Private Sector Constituency:

➢ Transparency and clarity
➢ Cost- and time-effectiveness
➢ Balanced representation of all key private sector constituents that are willing and able to contribute, globally and in implementing countries
➢ Flexibility to suit different levels of interest and resources to ensure issue-based participation
➢ Resource commitment commensurate with task at hand

3. PRIVATE SECTOR CONSTITUENCY

3.1 Private Sector Mission

The Private Sector Constituency’s mission is to help the Global Fund by channeling private sector involvement in the Fund’s governance, programs and activities. Within the Global Fund’s governance structure, private sector refers to businesses, corporations, and commercial or social enterprises. The Private Sector Constituency also welcomes participation from entities that represent the private sector, including local business associations and industry groups.

There are separate Global Fund Board Constituencies for private charitable foundations and for non-governmental/not-for-profit civil society organizations.

Specific objectives of the Private Sector Constituency include but are not limited to:

➢ Bringing comprehensive Private Sector expertise to bear on Global Fund operations and its organization
➢ Advancing strategic policies affecting the Private Sector
➢ Facilitating Private Sector involvement through partnerships in program implementation and other operational activities, globally and in implementing countries
➢ Facilitating broad-based resource mobilization for the Global Fund

3.2 Private Sector Constituency Composition

The Private Sector Constituency is comprised of companies and business organizations worldwide that are interested in the Global Fund’s mission and opportunities to become
engaged with the Fund. These companies and organizations are primarily, although not exclusively reached through the established organizational networks. Constituency members do not have to: sign a conflict of interest declaration statement, financially support the Focal Point or be actively engaged in Global Fund private sector processes or activities.

The Private Sector Constituency, referred to broadly as the PSC, will be represented to the Global Fund and at the Board level by the Board Member, Alternate and Focal Point, and is guided by two tiers of member companies.

3.2.1 PSC Advisory Group

➢ Members of the PSC Advisory Group provide primary guidance and support to PSC Leadership in developing constituency positions on all relevant strategic and policy issues.

➢ Companies wishing to join the Advisory Group are required to either:
  ▪ Provide financial support to the constituency through $20,000 in annual membership dues, payable to the Focal Point organization; or
  ▪ Provide financial support directly to the Global Fund as a donor at the level of US$ 1 million/annually, in which case additional membership dues to the constituency are desirable, but not required.

3.2.2 PSC Affiliate Members

➢ Affiliate members provide input during PSC deliberations on strategic and policy issues in a non-voting capacity.

➢ Affiliate member companies are required to provide financial support to the constituency through $10,000 in annual membership dues, payable to the Focal Point organization.

Additional information on benefits and responsibilities within each membership tier is provided in Sections 3.4-3.6 below.

To the extent possible, the PSC endeavors to engage a diverse group of companies in its membership, including companies from a range of industries, geographies and sizes. In particular, the PSC is committed to engaging with private sector companies based in regions with high disease burdens and/or in countries eligible for Global Fund grants, including through registered industry associations worldwide, to ensure representation of their unique perspectives at the Board level.

3.3 Constituency Leadership

3.3.1 Selection of the Board Member and Alternate Board Member

The Board Member and Alternate Board Member are elected by the members of the Advisory Group for a two-year term, which is renewable for a total of four consecutive years per position. The term begins at the close of the first Board Meeting in a given year, and finishes at the close of the first Board meeting two years later.

Election process should commence at least two months before the first Board meeting, and are organized by the Focal Point. Annex VIII outlines election procedures for the selection of the Board Member and Alternate Board Member.
In the event that a mid-term vacancy arises where a Board Member cannot complete their two-year term, the Alternate Board Member would be appointed as Board Member for the remainder of the term, and a new Alternate would be identified through a special election process. In the event that a Board member position cannot be filled at the end of the second consecutive term (four years) and the Alternate is also not available, an exception may be granted to extend an incumbent Board member’s term for an additional year while the PSC identifies a suitable replacement. Former Board Members or Alternate Board Members who have reached the maximum consecutive two-term limit per position would be eligible to stand for election again after a period of two years has elapsed since they last served in a Board position.

In acknowledgement of the complexities of learning how to function successfully, along with the time it takes to build working relationships within the Global Fund and the Board structures, it is encouraged that the Board Alternate position rotate every 2 years. This is in order to build a pool of viable successors for the Board Member, and to avoid having both the Board Member and Alternate Board Member reach maximum term limits at the same time. Candidates who have served as Alternate Board Members and/or qualified Advisory Group members are eligible for the Board Member position.

A call for interested applicants for Board Member and Alternate Board Member will be distributed through the Focal Point to PSC member companies and other private sector organizations via e-mail and website advertisements. Nominees from outside of the current PSC membership will be eligible for consideration as Board Member and/or Alternate, provided that they agree to formally join the PSC membership, including paying relevant fees as per the membership structure, upon election. Board Member and Alternate Board Member are expected to join the PSC at the Advisory Group level.

Candidates to serve as Board Member and Alternate Board Member should be senior business leaders, active or retired. The qualities that candidates for these positions should possess include:

- A passion for and knowledge of the issues of global public health including HIV/AIDS, tuberculosis and malaria
- A respected reputation for effective business management, whether at the local, regional or global level
- The capacity to commit adequate time to attend Global Fund Board and constituency meetings (at minimum, 12-13 days/year, including twice-annual constituency pre-Board meetings, twice-annual Global Fund Board Meetings, annual constituency retreat and ad-hoc meetings as a representative of the PSC)
- Time or access to adequate staff support to liaise with the Focal Point on an on-going basis for the analysis, networking and consultation required to be an effective private sector representative (at minimum, 3-5 hours/week)
- A commitment and willingness to represent diverse views and interests across businesses and including multiple industries and geographies during Global Fund engagements
- The ability to work in an inclusive manner with other members of the constituency, and in partnership with the public sector, civil society, affected communities and international organizations
- The ability to work as an advocate to represent the Global Fund mission at a senior level
The Private Sector Board Member and Alternate Board Member are required to adhere to all Global Fund governance guidelines and fulfill the expected obligations of a Global Fund Board Member. During Global Fund engagements, Board Member and Alternate represent the views and interests of the Private Sector Constituency, and not those of their employer.

Given their level of engagement with Global Fund bodies, it is key that Board Member and Alternate adhere to the PSC’s Code of Conduct and PSC Governance Guidelines when undertaking Board-related work and discussing Board-related matters.

Additionally, the Private Sector Board Member and Alternate Board Member acknowledge that they have been elected by the PSC Advisory Group and therefore, serve as the Leadership of the PSC as a Global Fund Board Constituency. As PSC Leadership, the Private Sector Board Member and Alternate Board Member’s roles and responsibilities include:

➢ Ensuring inclusivity and transparency amongst the Constituency
➢ Striving to include the broader Constituency in interactions with other Global Fund stakeholders including, whenever possible, opening up bilateral conversations for relevant PSC member representation
➢ Enabling the Focal Point to facilitate a vote among Advisory Group members when the Constituency is unable to come to consensus on a Board Decision Point.

3.3.2 Selection of the Focal Point

The Focal Point is managed by an Organization and elected by the members of the Advisory Group for a three-year term, which is renewable. The term shall begin at the close of the first Board Meeting in a given year, and end at the close of the first Board meeting two years later. A review should be launched of the Focal Point at least six months before the term is set to expire. Should the Advisory group want to send out Focal Point Request for Proposals (RFP) following the performance review, the Board Member will initiate a transparent recruitment process and a request for proposals at least five months prior to the end of each term to those entities and following the process agreed on by majority vote of the Advisory Group. Selections should take place at least two months before the first Board meeting.

The Focal Point is key to ensuring effective information flows both back and forth between the Board Member and Alternate Board Member, the constituency and the Global Fund Secretariat. The Focal Point is also critical in ensuring the broader dispersion of information within the constituency, as well as to the processes of resource mobilization, policy development and outreach to new members and other constituencies. The capacity to take on these extensive responsibilities require qualified staff, developed relationships with groups working in partnership for all Global Fund areas of focus, knowledge and experience to support the Global Fund goals, and a reliable communication infrastructure. These are core criteria for the selection of the Focal Point. The Focal Point represents the Private Sector Constituency broadly.

The terms of reference for the Focal Point are as follows:

➢ Ensure that all communications from the Global Fund Board and Secretariat are distributed to PSC members
➢ Work closely with the elected Board representatives, the Advisory Group and the broader constituency to expand the private sector role in partnerships and support the Global Fund Board
➢ Ensure effective communications within the Private Sector Constituency and orchestrate the active participation of the private sector at Global Fund Board meetings

➢ Work closely with the Private Sector Constituency leadership to advance policy and other Board-level work in an efficient manner, while liaising with other Board delegations (including key affected populations, NGOs and governments) and with the Global Fund, Stop TB and RBM Partnerships and others

➢ Support the active participation of the private sector on Board Committees

➢ Develop the private sector network and engagement globally

➢ Identify key issues for discussion and positioning. The Focal Point will in close cooperation with the Board Member and the Alternate organize the decision points in relative order of potential importance to the private sector for review and comment

➢ Provide a quarterly budget update including FTE time involved, travel costs, Administration expenses, etc. to the Board Member and Alternate with semi-annual updates for the Advisory Group. Annual budget estimations will be presented at the November/December PSC meeting that will lay out the expenses for the year ahead

➢ Manage and monitor the implementation of the PSC conflict of interest policy and annual compliance statements

### 3.4 Advisory Group Purpose and Composition

Given the breadth of the Private Sector Constituency, a small reference group called the PSC Advisory Group (the “Advisory Group”) will be established. The Advisory Group is a group of companies who provide support to the constituency and/or the Global Fund. Ideally, these members should provide diverse representation across the private sector. Advisory Group members are required to have demonstrated interest and knowledge of the Global Fund, HIV/AIDS, TB, malaria, and/or other relevant public health issues.

Advisory Group members are required to sign a conflict of interest statement, adhere to the PSC’s Code of Conduct and provide financial support to the constituency, payable to the Focal Point. Companies with financial contributions to the Global Fund of $1 million per year and higher should be provided with a complimentary membership to serve as a member of the Private Sector Advisory Group. In such cases, additional contributions of $20,000 made to support the Focal Point are recommended, but not required for an Advisory Group seat.

The Advisory Group has voting responsibilities to elect the Board Member, Alternate and Focal Point. The Advisory Group will mainly act as a consultative body on all private sector matters such as resource mobilization and other relevant policy issues for the Private Sector. It will also provide critical links into the global business community through each member’s respective networks and constituencies. The Advisory Group will also provide input to guide the PSC vote on all Global Fund decision points.

Members of the Advisory Group are expected to actively engage in the work of the PSC via attendance at Global Fund and PSC meetings, document review, teleconference participation and PSC Task Force membership.
3.5 Advisory Group Formation

Any company interested in becoming an active member of the Advisory Group will provide a completed application to the Focal Point. The candidate will be vetted for qualification by the Focal Point, Board Member, and Alternate Board Member. The candidates will then be presented to the full Advisory Group. Members of the Advisory Group may request a teleconference with the candidate as part of the vetting process. Provided there are no objections from current membership, interested companies will be admitted to Advisory Group membership effective immediately. Membership of the Advisory Group will be limited to companies and business organizations with a track record of interest in the affairs of the Global Fund.

3.6 Private Sector Affiliate Membership

In order to expand engagement opportunities within the Private Sector Constituency, an Affiliate membership level will be available for companies interested in more active engagement with Global Fund and private sector issues and activities than the broader constituency, but who may not be able to commit the necessary time or financial contributions required for Advisory Group membership.

Affiliate members will have opportunities to provide general input and recommendations on Global Fund policy issues, to participate in private sector pre-Board meetings, retreats and certain teleconferences and to nominate a private sector representative to a leadership position within the constituency. Affiliate members will not have voting privileges on leadership selection, policy or governance issues and will not be eligible to serve in leadership positions. Affiliate members may participate in PSC Task Forces or ad-hoc working groups at the invitation of the Board Member and Alternate Board Member based on relevant expertise and ability.

Affiliate members will pay an annual contribution of $10,000 in membership dues. Companies interested in Affiliate membership will be subject to the same selection processes, conflict of interest policies and Code of Conduct as the Advisory Group members.

3.7 Internal Task Forces

The Private Sector Constituency is meant to support a cohesive response to Global Fund policies rather than to be the instrument of corporate strategies. To maximize the effectiveness of consultations on recurring and important Board matters, internal task forces will be established to provide on-going advisory support and analysis to the Private Sector Constituency.

3.7.1 Task Force Purpose

The PSC will constitute internal task forces on priority issue areas and to support Committee engagements. The PSC Advisory Group will decide and agree on task force structure and priority issues for an upcoming year at Annual Retreats and/or as needed based on Global Fund developments. Memberships in Task Forces will be on an annual basis, with an opportunity to renew or change task force memberships occurring at the end of Q1 each year. A list of PSC Task Forces for the 2018-2019 term is included in Annex V.

The purpose of task forces will be to support the PSC’s engagement on agreed priority issues, both by providing input on behalf of the constituency into the deliberations and votes within the
standing Committees and advisory bodies of the Global Fund Board, and by developing
constituency positions and expertise on cross-cutting issues of interest to the private sector.
Specific guidelines and scopes of work for each task force will be developed by the task forces,
within the bounds of the topics and objectives as determined by the Advisory Group.

For the 2018-2019 term, the PSC will constitute the following internal task forces:
   1. **Strategy Committee Task Force** (Board Committee-linked)
   2. **Audit and Finance Committee Task Force** (Board Committee-linked)
   3. **Procurement and Supply Chain Management Task Force**
   4. **Health Financing Task Force**
   5. **Grant Performance Task Force**

The Committee-linked task forces will support the PSC’s engagement with the Strategy and
Audit and Finance Committees of the Global Fund Board by providing input to Committee
Representatives in deliberations and votes on behalf of the constituency.

### 3.7.2 Expectations of Task Force Members

- All Advisory Group companies are required to participate in at least one task force, and
  strongly preferred to participate in two or more.
- Membership in task forces will be on an annual basis, with an opportunity to renew or
  change task force memberships occurring at the end of Q1 each year, following the
  procedures laid out in section 3.7.3 below.
- Task forces will convene on an approximately quarterly basis by email and/or
  teleconference, usually around a Global Fund Committee meeting or decision.
- Each task force will have a “lead,” and will be supported operationally by the Focal Point
  team.
  - For task forces linked to Board Committees, Working Groups or Advisory Groups
    where the PSC has a representative in membership, the lead will be the
    Committee/Working Group Member.
  - For topic-linked task forces and for task forces linked to Board Committees,
    Advisory Groups or Working Groups where the PSC does not have a
    representative in membership, the lead will be selected by task force members
    among themselves. The Board Member and Alternate will select amongst
    candidates in the event that there is more than one nominee for the lead role,
    and will nominate a candidate in the event that there are no volunteers.
  - The term length for leads will be annual with a possibility of renewal. Renewal or
    changes in task force leads will happen just after the annual review of task force
    memberships (end Q1).
  - Task force leads are responsible for helping to drive the agenda and activities of
    their task forces as a thought leader.
- The exact timing of feedback requests and conference calls (e.g. before or after
  Committee meetings, in the lead up to an electronic vote) will be at the discretion of the
  task force lead. The respective leads will be responsible for making the Focal Point
  aware of their needs/preferences in these regards so that task force members can be
  convened appropriately.
Documents for feedback can arrive at any time based on the Global Fund’s schedules. The Focal Point will seek to share documents at the earliest possibility to allow sufficient time for review, but this is not always feasible when they are disseminated late. Task force members will be expected to respond in writing in a reasonable time frame of 2-3 days, and to make themselves available to the best of their abilities for teleconferences, as needed.

### 3.7.3 Representation

If the primary company representative(s) to the PSC do not have sufficient time or relevant expertise to participate in task forces, they may delegate to a colleague at their companies to participate in a task force on their behalf, provided that delegate commits to the following expectations:

- The delegate will represent the PSC member and act in the best interests of the PSC as a group (in keeping with the Conflict of Interest policy).
- The delegate will commit the necessary time and attention to participate in task force feedback mechanisms.
- The delegate will commit to engaging with the primary Advisory Group representative regularly to keep them informed of major task force activities and deliberations.
- The delegate will make him/herself available to discuss task force business with the full PSC via teleconference, as is necessary and reasonable.

When determining the make-up of task forces, Advisory Group members’ preferences and expertise will be taken into consideration, while also taking into account the desire for balanced size/membership across task forces, to ensure each is sufficiently resourced.

- The Board and Alternate will intervene to make any needed adjustments to strike the balance in the task force composition (as per above), if necessary.
- If companies do not voluntarily declare their task force preference(s), the Board Member and Alternate will assign companies to task forces based on need.
- Affiliate members, non-Advisory Group Global Fund donors, or other technical experts may also be invited to participate based on specific skills and qualifications as needed and at the discretion of the Board Member and Alternate.

### 4. PSC ATTENDANCE AT GLOBAL FUND BOARD MEETINGS

#### 4.1 PSC and Global Fund Bi-Annual Meeting Schedule

The Global Fund Board typically convenes twice per year. The full schedule of Board and PSC meetings at these times typically covers four days, as follows:

- **Day One:** The PSC will hold a pre-Board meeting for constituency members to review Board matters, decision points and agenda items and to determine PSC positions. The PSC pre-Board meeting is open to all Advisory Group and Affiliate Members interested to attend, and to other interested companies, space allowing.
- **Day Two:** Before the start of the formal Board agenda, the Global Fund holds Board briefings on various topics, including some that may not be included on the main Board agenda. The ten Donor Bloc constituencies, of which the PSC is one, also typically hold
a meeting on this day, and the PSC may also set up additional bi-lateral or joint meetings with other Board constituencies. All companies who attend the PSC pre-Board meeting are also welcome to attend meetings on day two.

➢ **Days Three and Four:** The formal Global Fund Board agenda takes place over two days during which the Board takes formal decisions on various topics. The PSC is represented by the Board Member and Alternate Board Member during these meetings, supported by the Focal Point and a formal delegation of seven additional Advisory Group members. All members of the formal Board delegation are required to attend days one and two, as well.

During Board Meetings held outside of Switzerland, optional site visits may also be organized by the Global Fund and host government prior to or after the Board meeting dates. Site visits typically have limited capacity and participation is on a first-come, first-serve basis as confirmed directly with the Global Fund-designated coordinator of these activities.

After the Global Fund announces dates of upcoming Board Meetings, the Focal Point will issue a call of interest for attendance to the PSC pre-Board, inter-constituency, and Board Meetings with a clear deadline for initial RSVPs. The formal delegation to attend the Board Meetings will be selected from among interested Advisory Group members, as per Section 4.2, below.

### 4.2 Board Delegation Composition and Participation Requirements

The Global Fund Board limits participation from each Board constituency to a maximum of ten delegates for the formal Board meetings (days three and four, above), of which three are the Board Member, Alternate Board Member, and Focal Point. Members of the Private Sector Advisory Group fill the remaining seven delegate roles for the PSC on a rotational basis to support the Board Member and Alternate Board Member in representing the Private Sector Constituency. The delegation will represent the collective interests of the Private Sector Constituency and a broader commitment to the Global Fund and the fight against the three diseases.

A combination of the following principles will be observed to guide decision-making for delegation composition:

➢ Content experience and expertise: ensuring the membership has the appropriate experience and expertise in the priority and relevant Board meeting agenda areas, including through active participation in PSC task forces, Advisory Group meetings and conference calls.

➢ Fair and equitable participation: ensuring a degree of rotation to provide all interested Advisory Group members the opportunity to participate in Board Meetings, while maintaining enough consistency for relationships and key Board agenda issues.

➢ Balanced and diverse representation: ensuring there is diversity in perspectives from the private sector (by industry, geography, etc.) and balanced participation of all key constituencies.

By expressing interest in serving as a member of the formal Board delegation, Advisory Group members commit to the following requirements. Failure to do so will impact negatively on future participation:
➢ Review assigned Board background documents and decision points, and prepare to lead discussion of these items during the PSC pre-Board meeting
➢ Actively contribute to formulating the PSC’s position statement(s) for Board decision points
➢ Attend the PSC pre-Board meeting, networking event(s), and inter-constituency meetings on days one and two
➢ Attend the entire board meeting (days three and four)

In the event that the regular company representative to the PSC is unable to attend PSC and Global Fund Board meetings, another representative within the Company may be nominated to attend in their place by notifying the PSC Focal Point, Board Member, and Alternate Board Member. It is expected that the new company representative will be fully briefed by their company’s primary representative(s) ahead of constituency and board meetings.

In the event that more than seven Advisory Group members express interest to attend the Global Fund Board meetings as members of the official delegation, the Board Member, Alternate Board Member and Focal Point will consult to select the seven delegates and formulate a waiting list for other interested attendees, taking into consideration the principles outlined above – content experience and expertise, fair and equitable participation (including prior attendance and order of RSVP), and balance and diverse representation.

4.3 Allocation of Badges to Official Delegation Members

Each Board constituency is provided with a maximum of 10 access badges to the Board Meetings for their ten official delegates. These 10 access badges are divided between 5 badges for plenary (Board) room access and 5 badges for listening/viewing room access. The Board Member, Alternate Board Member and Focal Point each receive a plenary room badge according to normal Global Fund procedure.

➢ The remaining 2 plenary room badges and 5 viewing room badges will be distributed based on history of Board attendance and equitable participation.
➢ The Focal Point will coordinate badge swapping over the course of the two days to ensure that each delegate has access to the plenary room for at least one session of interest. Delegates will be asked to declare 2-3 areas of interest in advance of the Board Meeting based on a review of the agenda, background documents and decision points, which will be taken into consideration when arranging badge swapping.

5. CONSTITUENCY WORKING PROCESSES

5.1 Communication within the Constituency

The Focal Point is responsible for effective communication with the Private Sector Constituency. The Focal Point shall communicate regularly with the constituency by the following means, among others:

➢ Periodic newsletter distributed to the entire constituency
➢ Quarterly teleconferences for the Advisory Group and Affiliate Members
➢ On-going email communication to consolidate issues for review/positions/Board votes, etc. and periodic email updates
➢ Semi-annual face-to-face meetings
➢ Annual in-person constituency retreat
➢ Quarterly and ad-hoc teleconferences of PSC Internal Task Forces

The Focal Point shall communicate with the Advisory Group and Board Delegation prior to Board meeting through the following means:

➢ Emails to the Advisory Group in advance of Board and Committee meetings, outlining key issues
➢ Emails forwarding logistical information regarding Board meetings immediately after release by the Secretariat
➢ Teleconference consultations with the Advisory Group for the development of constituency positions prior the Board meeting (or as materials are made available by the Secretariat)
➢ Draft position papers distributed to the Advisory Group prior to the Board meeting with call for final comments by email (assuming materials had been made available in a timely fashion by the Secretariat)
➢ A face-to-face meeting one day before the Board meeting to finalize positions on decision points and other key issues

5.2 Development of Constituency Positions

Private sector positions on Global Fund-related issues, including Board and Committee decision points and discussion items, are developed through active consultations within the Advisory Group. The Focal Point will organize decision points and other discussion items in relative order of potential importance to the private sector for review and comment. When consultations fail to deliver a consensus, the Focal Point will facilitate a vote to identify the Constituency’s position. The Board Member has the option to represent diverse views to the Board rather than having to represent a majority decision as a final position.

5.3 Constituency Engagement in Global Fund Committees

The Private Sector Constituency will regularly participate on Global Fund Committees and ad-hoc Working Groups. Representation on Global Fund Committees and Working Groups is established by agreement of the Board Member and Alternate Board Member, with input from the Focal Point. Committee representatives regularly report through the Focal Point back to the Advisory Group.

Committee representatives participate on Global Fund Board Committees on behalf of the Private Sector Constituency. As such and given their level of engagement with Global Fund bodies, Committee representatives must represent the views and interests of the PSC and adhere to the PSC’s Code of Conduct, when undertaking Committee work and discussing Committee-related matters.
5.3.1 Selection of Private Sector Nominees to Global Fund Committees and Working Groups

The Focal Point will solicit candidacies for vacant Committee or Working Group positions, sending role description and responsibilities to all PSC members.

➢ **Step One:** If there are suitable candidates among PSC members:
  ▪ If there is only one candidate, proceed to step 3;
  ▪ If there is more than one candidate, proceed to step 4.

➢ **Step Two:** If there are no candidates from PSC representatives, then PSC members can propose candidates to be screened by the Board Member and Alternate. If at least one of the two (Board Member or Alternate) approves of candidate(s) then the candidate(s) is/are officially proposed to the PSC for consideration and plenary vote. If elected, the external PSC representative will not be a voting member of PSC but will report to it on a regular basis. If neither the Board Member nor Alternate approve of any candidate then new candidates are solicited from the PSC member companies. Process repeats until suitable candidate is found or delegation exhausts candidates, in which case PSC will renounce prerogative to submit a candidate for that committee.

➢ **Step Three:** If there is only one PSC member candidate for the position:
  ▪ Focal Point collects the expressions of interest (EOI) and CV.
  ▪ Board Member and Alternate review EOI and qualifications.
  ▪ Board Member and Alternate screen for qualifications and relevance to the position.
  ▪ Board Member and Alternate vote on candidate.
    i. Scenario A: Board Member and Alternate agree the candidate is suitable.
       ➢ Board and Alternate inform PSC and process moves forward with nomination.
    ii. Scenario B: Board Member and Alternate agree candidate is not suitable
       ➢ Candidate does not proceed, and process reverts to step 1.
    iii. Scenario C: Board Member and Alternate do not agree whether the candidate is suitable or not.
       ➢ One PSC member is randomly selected to break the tie.
       ➢ If majority is for submitting the candidate, then Board Member and Alternate inform PSC and process moves forward with nomination.
       ➢ If majority is for rejecting the candidate, then candidate does not proceed, and process reverts to step 1.

➢ **Step Four:** If there is more than one candidate for the position:
  ▪ Focal Point collects EOIs and CVs.
  ▪ Candidates are informed of who their competition is and offered a chance to withdraw.
  ▪ Board Member and Alternate will rank candidates based on qualification and relevance to the position.
  ▪ Board Member and Alternate will narrow down the choice to two candidates, if more than two candidates running.
iv. Scenario A: Board Member and Alternate agree that one candidate is better qualified.
   ➢ Board and Alternate inform PSC and process moves forward with nomination of best candidate and rejection of less qualified candidate.

v. Scenario B: Board Member and Alternate agree that neither candidate is qualified or relevant.
   ➢ Candidate does not proceed, and process reverts to step 1.

vi. Scenario C: Board Member and Alternate disagree as to which candidate is best qualified.
   ➢ One PSC member is randomly selected to break the tie.
   ➢ If majority decides in favor of one of the candidates, then Board and Alternate inform PSC and process moves forward with nomination.
   ➢ If majority decides in favor of neither candidate, then neither candidate proceeds, and the process reverts to step 1.

6. CONFLICT OF INTEREST POLICY

6.1 Definition

A conflict of interest is a situation in which a person’s professional and personal interests, including, to the best of their knowledge, the interests of the company he or she represents, are inconsistent with or at risk of being perceived as being inconsistent with the interests of the Global Fund Private Sector Constituency and/or the Global Fund. These interests – actual or perceived – could be seen as being incompatible with the constituency’s mission, could act to undermine its credibility or could, if exploited, result in the distortion of the discussions and decisions by the Advisory Group.

6.2 Principles

No Advisory Group or Affiliate member shall use their position or the knowledge gained in such a manner whereby a conflict of interest arises with the Global Fund, but is not disclosed.

When acting on behalf of the Private Sector Constituency, as individuals or as representatives of respective companies, Advisory Group and Affiliate members have a duty to place the wider interest of the Global Fund and the Private Sector Constituency foremost in any dealings, both internally and externally, and have a continuing responsibility to comply with this policy.

Any Advisory Group or Affiliate member who becomes aware of a potential conflict of interest with respect to any matter involving Global Fund activities shall make this known immediately in any discussion related to the matter.

Certain members of the Advisory Group, such as the Board Member, Alternate Board Member and members serving on Global Fund Board Committees or in other formal GFATM governance positions, will be asked to provide declarations of interest directly to the Global Fund Ethics Official as per the Global Fund’s formal Policy on Ethics and Conflicts of Interest (see Annex III). If an issue arises in both channels, the Board-required process will supersede the PSC process.
6.3 Procedures

An Advisory Group or Affiliate member will be required to follow the procedures outlined below should an actual or potential conflict of interest arise:

➢ The member must declare the actual or potential conflict(s) of interest in writing to the Focal Point, copying the Board Member and Alternate.

➢ The Advisory Group or Affiliate member may choose to recuse themselves from participation in the activities related to the conflict, with or without explanation and without prejudice.

➢ If the Advisory Group or Affiliate member declares an actual or potential conflict and declines to disclose details, s/he will be required to recuse him or herself from discussions and decisions in question.

➢ If the Advisory Group or Affiliate member declares the details of an actual or potential conflict and wishes to continue participation in related activities, the Focal Point will organize a teleconference or meeting with the constituency’s Board Member and Alternate to determine the existence or relevance of the conflict.

➢ If upon review, it is determined that a conflict of interest does not exist, no further action is required of the Advisory Group or Affiliate member.

➢ If an actual or potential conflict of interest is determined, the Advisory Group or Affiliate member will be required to disclose the existence of a conflict of interest to other group members and to recuse him or herself from discussions and decisions pertaining to the activity in question.

➢ If the Advisory Group or Affiliate member holds responsibilities within the constituency that are associated with the activity in question, his/her responsibilities related to the activity will be reassigned to another member by the Focal Point and/or Board member.

➢ Failure to disclose an actual or potential conflict of interest will result in disciplinary action up to or including suspension from the delegation or from the constituency depending on the nature of the conflict of interest. The sanction will be determined by the Board Member and Alternate Member through consultations with the Focal Point and Advisory Group members. In rare occasions where serious issues arise, PSC Leadership may deem it necessary to consult with the Global Fund Ethics Official and/or the Ethics and Governance Committee (EGC) to determine the appropriate course of action.

➢ In some cases, an issue may be wider than a company’s participation with the PSC and may therefore be subject to procedures outlined in the Global Fund’s Policy on Ethics and Conflicts of Interest (for example, instances of misconduct identified through Office of Inspector General investigations or reviews). In such cases, the procedures initiated through official Global Fund channels as outlined in the Global Fund policy on Ethics and Conflicts of Interest will take precedence over internal PSC procedures, and the PSC will defer to the determinations and/or disciplinary actions imposed by the Global Fund Ethics Official, EGC, and/or Sanctions Panel.

Advisory group members are advised to consult with the Focal Point for ongoing guidance should questions or concerns arise.
6.4 **Annual Statement**

Advisory Group and Affiliate members will be required to fill out and send to the Focal Point the Advisory Group Conflict of Interest Assessment Form, including the option to consent to disclosure of any potential conflict of interest.

6.5 **Oversight**

The content and procedures of the Conflict of Interest Policy will be managed by the Focal Point and reviewed annually by the Board Member, Alternate and Focal Point to determine if any changes are necessary.

7. **ANNUAL COMPLIANCE STATEMENT**

By signing and dating below, the Private Sector Constituency member has read, understood, and agreed to comply with the “Governance Guidelines for the Private Sector Constituency to the Board of the Global Fund to Fight AIDS, Tuberculosis and Malaria” and its Annexes, as set forth in this document.

Signed: ______________________________

Company: ____________________________

Date: ________________________________
8. ANNEXES

I. Global Fund Guidelines on Constituency Process
II. PSC Conflict of Interest Assessment Form and Declaration
III. Policy on Ethics and Conflict of Interest for Global Fund Institutions
IV. Current Private Sector Advisory Group and Affiliate Members
V. Current PSC Task Forces and Membership
VI. Private Sector Constituency Member Code of Conduct
VII. Compliance Guidelines for PSC Meeting Attendees
VIII. PSC Leadership Election Process

VI. Private Sector Constituency Member Code of Conduct

The Private Sector Constituency expects its Advisory Group and Affiliate members to meet the highest ethical and professional standards in their actions, their use of authority and their dealings with others. PSC members are expected to act in the best interests of the Global Fund, to endorse and support the Global Fund and Private Sector Constituency’s mission, policies and operating requirements.

The Private Sector Constituency has adopted the following Code of Conduct that Advisory Group and Affiliate members agree to adhere to by signing an Annual Compliance Statement (see section 7).

➢ When acting on behalf of the Private Sector Constituency, as individuals or as representatives of respective companies, Advisory Group and Affiliate members have a duty to place the wider interest of the Global Fund and the Private Sector Constituency foremost in any dealings, both internally and externally, and have a continuing responsibility to comply with this policy.
➢ Given the large number of suppliers to the Global Fund represented on the PSC, the Focal Point organization will read a statement informing PSC members of compliance guidelines at the start of every meeting of the PSC (see Annex VII “Compliance Guidelines for Private Sector Constituency Meeting Attendees”).
➢ Any member who is aware of a potential or explicit conflict of interest is expected to disclose this conflict to the Focal Point as soon as they become aware of it, in compliance with the PSC’s Conflict of Interest Policy (see Section 6 “Conflict of Interest Policy”).
➢ It is expected that member companies recuse themselves from discussions if there is an explicit conflict-of-interest present with their participation. Any member having a conflict of interest shall not use his or her personal influence to address the matter, nor will participate in consensus building or a vote related to the matter. All conflicts disclosed to the PSC will be made a matter of record in the minutes of the meeting in which the disclosure was made, which shall also note that the member recused themselves from discussions.
➢ PSC members are expected to adhere to all PSC Governance Guidelines, including the Conflict of Interest Policy, when representing the PSC or participating in meetings arranged by the PSC. This includes, but is not limited to, PSC meetings and retreats, and all Global Fund Board meetings. Members shall not utilize structures or positions of the PSC—including involvement of the Focal Point organization or Private Sector Board Members, and PSC initiatives—when interacting the with Global Fund in their professional capacity (such as meetings arranged between a supplier organization and the Global Fund).

Breaches of conduct will be brought to the PSC Advisory Group for consideration. If it is determined that a breach of conduct has occurred, the Board Member will notify that PSC member in writing outlining the circumstances of the breach of conduct and any corrective actions to be taken. In extreme circumstances or in cases of continued offence, a member may be asked to disengage from the PSC for a period of 2 years. At the end of the 2-year period, the company may reapply to join the PSC (see section 3.5).

VII. Compliance Guidelines for Private Sector Constituency Meeting Attendees

Members of the Private Sector Constituency should be aware that exchanging sensitive commercial information, even in the context of the Global Fund’s work and discussions within the Private Sector Constituency, is a potential breach of international and national competition laws. These guidelines aim to ensure that the Private Sector Constituency and its members do not engage in any discussion or practice that may violate competition laws or act in a way that is intended to advance company interests, as opposed to the larger interests of the Global Fund.

Rules of Good Conduct at PSC Meetings:

➢ All meetings organized and attended under the Private Sector Constituency umbrella must relate to activities of the Global Fund and its Board.
➢ Any member who considers that information provided to the meeting breaches international competition rules should interrupt the meeting. A minute of the objection should be made. The members should not discuss the matter again until a legal opinion has been sought.

Suppliers to the Global Fund

➢ PSC members who are also Global Fund suppliers have a valuable perspective to lend to discussions within the Private Sector Constituency. All companies are permitted to discuss during PSC meetings:
➢ Non-confidential issues of common concern to the industry, such as regulatory policy developments, environmental topics and development of industry standards.
➢ Industry communication, public affairs and advocacy activities on legislative issues and undertaking studies to support these activities.
➢ Sharing costs for undertaking legitimate projects based on size of companies involved as long as there is no direct link with or exchange of commercially sensitive information (more than 12 months old) or turnover figures that are not public.
➢ Publicly available information and key economic trends.
➢ Exchange of statistical information is allowed when the data is historical, non-confidential and aggregated for more than 3 independent producers.
However, the PSC is not an industry or lobbying group, and it is prohibited for Private Sector Constituency members to discuss or agree on the following:

- **Prices**: Members of the Private Sector Constituency will not engage in price-fixing. Members will not engage in discussion related to agreement on level of prices, agreement to consult each other’s price lists or terms of sale or to exchange detailed information on each other’s production costs or to agree conditions of sale (such as discounts to be applied).
- **Market Sharing**: Agreeing geographical areas where members will not compete against each other.
- **Customer Allocation**: Allocating customers to whom the members will sell.
- **Output Restrictions**: Agreement to restrict output or to establish quota systems allocating a specific part of the total industry output amongst PSC members.
- **Bids**: Agreement on strategy for forthcoming tenders to private and public sector contracts and allocation of bids to individual members.
- **Information**: Exchanging commercially sensitive information (strategy or investment plans, costs, know-how, etc.).

**Procedure**

This clause will be read aloud by the Focal Point organization at the start of each in-person convening of the Global Fund’s Private Sector Constituency.

“The purpose of this meeting is to discuss how the Private Sector Constituency can best work together to advance the mission and activities of the Global Fund. This meeting is to conform with international competition law and sensitive information relating to prices, markets, output, sensitive commercial activities and other confidential information should not be discussed before, during or after the meeting. Similarly, it’s important to avoid discussing what a company may or may not do in the marketplace in response to some actual or potential change in policy, regulation or law.”

**VIII. PSC Leadership Election Process**

The Private Sector Board Member and Alternate Board Member are elected by the PSC Advisory Group members. Affiliate members do not have voting privileges on PSC leadership selection.

The Focal Point coordinates the election process for the PSC Board Member and Alternate. The elections for Board Member and Alternate Board Member are conducted via a confidential electronic vote of the PSC Advisory Group members. One vote per Advisory Group member company is cast electronically directly to the Focal Point organization. Voting is done confidentially. PSC members who do not cast a vote by the stipulated deadline are counted as abstained.

Elections for Board Member and Alternate take place consecutively, as candidates are eligible to put their names forward for the Board Member position, for the Alternate Board Member position, or to be considered for either position. The election of the Board Member takes place first. Once the Board Member is selected, the voting period for the Alternate Board Member election is launched.
In the event of a tie between the top two candidates for either position, the Focal Point organization will notify the Advisory Group of the tie and will launch a second voting period to select the next PSC Board Representative from only the top two preferred candidates.

In the event of a tie after the second voting period, the PSC’s Governance Working Group will conduct interviews with the candidates to glean further insights into their qualifications for the position, and will select the next PSC Board Representative.

**Special Election Process**

In the event that a mid-term vacancy arises for the Board Member or Alternate Board Member position, a special election process will be held to fill the vacancy for the remainder of the current term. At the conclusion of the current term, selection of the Board Member and Alternate Board Member will follow the normal process established in section 3.3.1.

The following are potential scenarios under which a special election will be held:

Scenario 1: The Board Member leaves his/her current PSC Member Company and joins a non-PSC entity, then the Board Member will have to relinquish his/her Board seat automatically. In such an event, the Alternate will assume the Board Member position for the remaining tenure. A special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.

Scenario 2: The Board Member leaves his/her current PSC Company and joins another eligible PSC company (existing member, or commits to becoming a PSC member immediately), then a confirmatory vote will be held among the PSC membership to reaffirm that the Board Member, as an employee of the new PSC member company, has support to continue in the Board position. If the majority vote is not in favor of the Board Member to stay in his/her current role, then the Alternate will assume the Board Member position for the remaining tenure. A special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.

Scenario 3: The Board Member leaves his/her current PSC Company, but chooses not to serve in the Board position in his/her new responsibilities, the Alternate will assume the Board Member position for the remaining tenure. A special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.

Scenario 4: In all of the above scenarios, if the Alternate is unwilling or otherwise unable to assume Board Member responsibilities, then the Board Member position will open up for a special election process within the existing PSC members. The Alternate will remain in his/her current role for the remaining term.

Scenario 5: If the Alternate Board Member leaves his/her current PSC Company and joins a non-PSC entity, then the Alternate will have to relinquish their seat automatically. In such an event, a special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.

Scenario 6: The Alternate Board Member leaves his/her current PSC Company and joins another eligible PSC company (existing member, or commits to becoming an PSC member immediately), then a confirmatory vote will be held among the PSC membership to reaffirm that the Alternate Board Member, as an employee of the new member company, has support to continue in the Alternate position. If the majority vote is not in favor of the Alternate member to
stay in his/her current role, then a special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.

Scenario 7: The Alternate Board Member leaves his/her current PSC Company, but chooses not to serve in the Alternate position in his/her new responsibilities, then a special election will be held for the Alternate Board Member position among the existing PSC membership for the remaining term.