



## INSTITUTIONAL ARRANGEMENTS

### For Decision

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*Please note: Board papers are deliberative in nature and, in accordance with the GPE Transparency Policy, are not public documents until the Board has considered them at the Board meeting. It is understood that constituencies will circulate Board documents among their members prior to the Board meeting for consultation purposes.*

## 1. STRATEGIC PURPOSE

1.1 The purpose of this paper is to respond to the Board's request from June 2017 in relation to GPE's institutional arrangements with the World Bank.

1.2 The Board is asked to consider the information outlined in this paper and to provide guidance on the proposed approach moving forward.

1.3 As the Secretariat was unable to complete the paper in time for the Finance and Risk Committee to consider it at their October meeting, the paper has not benefitted from FRC input or recommendation. The FRC will be considering the paper by audio-conference in advance of the Board and their deliberations will be subsequently communicated to the Board.

## 2. EXECUTIVE SUMMARY

2.1 GPE has benefitted significantly since inception from a very productive and collaborative relationship with the World Bank as Trustee, Grant Agent, and as administrative host to the Secretariat.

2.2 Over the past number of years, GPE has significantly evolved in terms of its governance, operational model, the role and size of the Secretariat, the number of developing country partners, the volume of disbursements, and range of implementing partners (Grant Agents) through which funds are allocated. The World Bank has been very responsive and helpful in supporting GPE to facilitate these changes.

2.3 Over the coming years, GPE will need to continually change and adapt to increased expectations. GPE has adopted an ambitious strategic plan “GPE2020” and Results Framework. It has developed a Financing and Funding Framework (FFF) that matches that ambition and has responded to the recommendation of the Education Commission for GPE to be a US\$2 billion a year organization by 2020 with a case for investment that calls for a significantly higher volume of funds to be raised starting with GPE’s Financing Conference in early 2018. This will increase the need to better manage currency exchange risk, and will have implications on GPE’s human resource requirements (BOD/2017/12/DOC 19).

2.4 In addition, GPE will need to collaborate and further define its relationship with the proposed International Finance Facility for Education (IFFEd) as this initiative continues to develop, along with Education Cannot Wait (ECW). In the case of ECW, this relationship may involve the possibility of GPE being selected as a permanent host, which in turn could necessitate consideration of new ways to engage entities based in recipient countries in the Partnership.

2.5 As GPE moves forward into the 2018-2020 replenishment period, and considers its future beyond that period, it will need to consider whether further changes are required to its institutional arrangements with the World Bank to accommodate:

- Currency Risk Management
- Involvement of national and other non-traditional entities in Grant Execution
- Growth in the Secretariat

2.6 While GPE considers the flexibility required to accommodate future growth and change, a separate but related Trust Fund reform process is underway in the World Bank. Given the increasing number and diversity of Financial Intermediary Funds (FIFs) within the World Bank (of which the GPE Fund is one of many), the issue of whether the World Bank needs to make any changes to its approach to FIFs is currently under consideration.

2.7 As GPE considers the outcome of its upcoming financing conference, potential hosting of ECW, and Secretariat human resource requirements, and the World Bank considers the outcome of its Trust Fund reform process, there will need for strategic dialogue over the coming months on what changes are necessary and can be accommodated within the existing institutional arrangements, as well as any implications for staffing. As part of this process, the Secretariat believes it should include an examination of the implications of legal capacity for GPE.

2.8 The contents of the rest of this paper respond directly to the Board’s decision from June 2017 for information on several practical and operational aspects of GPE’s current institutional arrangements such as currency hedging, involvement of national and other non-traditional entities in grant execution,

how GPE interacts with the World Bank as Trustee, Grant Agent, and administrative host to the Secretariat, and provides information on several comparator organizations in the health and climate sectors.

### **3. BOARD DECISION**

3.1 Based on the Board's deliberations, the Board is asked to consider the following decision:

**BOD/2017/12/XX Institutional Arrangements:** The Board of Directors requests: The Secretariat in consultation with the World Bank to prepare a paper for the Board's consideration by June 2018 presenting an analysis of options for any required changes to GPE's institutional arrangements deriving from the GPE's evolving mandate, strategy, and business needs. The paper should consider the implications of the outcome of the GPE financing conference, potential human resource requirements for GPE over the 2018-2020 period, the ongoing World Bank Trust Fund reform process, progress on currency hedging solutions, and the latest information on ECW hosting.

### **4. BACKGROUND**

4.1 Since its creation, GPE has benefitted enormously from the World Bank's support and collaboration as Trustee, Grant Agent, and administrative host to the Secretariat. The World Bank has shown significant flexibility to accommodate the changing needs of GPE which has been highly appreciated.

4.2 As GPE continues to grow and change, the GPE Board has recognized that the nature of its institutional arrangements with the World Bank also need to be reviewed from time to time. In June 2017, several issues with GPE's current institutional arrangements were briefly examined. Two issues in particular, **currency hedging** to mitigate against foreign exchange risk, and **direct access** which is the ability if GPE needed to transfer funds directly to national entities, and other non-traditional entities, without a Grant Agent as an intermediary, were considered. Arising from that paper and subsequent discussion, the Board passed the following decision:

**BOD/2017/06-12—Institutional Arrangements:** *The Board of Directors:*

*1. Requests the Secretariat in consultation with the World Bank to submit a report to the Finance and Risk Committee for subsequent consideration by the Board in December 2017 that fully explores the options available, and their implications, for providing solutions to the issues described in BOD/2017/06/DOC 17 within the existing institutional arrangements with the World Bank.*

*2. The Report should provide an analysis of possible models for GPE's institutional arrangements, including:*

- a. Key elements of institutional arrangements and how they impact on GPE's capabilities and flexibilities (e.g., legal entity, trustee arrangements, hosting).
- b. An examination of the institutional arrangements for other sectoral funds (e.g., health, climate) and their lessons for GPE.
- c. An update on changes to the World Bank's policy with respect to financial intermediary funds and an assessment of its implications for GPE.

4.3 Section 5 of this paper provides an update on the issue of currency hedging, while Section 6 outlines the current situation on direct access in response to part 1 of the Board's decision. Section 7 and 8 respond to parts 2a and 2b respectively.

4.4 In relation to part 2c, the Management Framework for World Bank Partnership Programs and Financial Intermediary Funds published in 2013, along with the Policy Directive and Guidance Notes on FIFs (2015) continue to guide the Bank's approach to partnerships and FIFs such as GPE. There is, however, an ongoing Bank process focused on Trust Fund reforms underway, with one of the work streams looking at FIFs. It is not expected that any recommendations arising out of this process would be approved until early 2018.

## **5. CURRENCY HEDGING**

5.1 GPE has significant donor multi-year commitments in multiple currencies. GPE's functional currency is US\$, but the majority of donors make and pay pledges in national currencies. The difference in exchange rates between the value of the pledge when expressed in US\$ at the time it is made, versus the actual value received once a contribution has been made and converted to US\$, can be significant. During the current replenishment period, a significant appreciation of the US\$ resulted in a significant reduction in resources available compared to the valuations when the pledges were initially made.

5.2 Hedging instruments could reduce the volatility between the US\$ value of pledges made and the actual US\$ received when funds are contributed. However, to date and for a variety of technical and legal reasons, no practical option was available for GPE to pursue such an approach.

5.3 As this is an issue that impacts many Trust Funds like GPE, the World Bank has been actively engaged in attempting to find a solution, and significant progress has been made on the issue. The World Bank has identified and is actively exploring a potential solution that could be beneficial for Financial Intermediary Funds such as GPE. This would involve GPE accessing **the capital markets as part of IBRD's TF Pool, whereby** GPE could leverage the existing infrastructure and relationships of the TF Pool to execute market hedges.

5.4 The progress made on this issue is significant and positive, however there are still a number of technical and practical issues to be resolved over the coming months before a potential solution can be

finalized. The Secretariat will continue to engage with the World Bank to monitor progress and see how the solution can be applied for GPE. This will be an ongoing topic for discussion at the next meeting of the FRC following the GPE financing conference. At that point the Secretariat will be able to do a comprehensive analysis of GPE's exchange rate exposure. The Secretariat will engage external expertise as required to support this analysis and the Committee's deliberations.

5.5 Further technical information on the option, and more details on next steps and considerations are outlined in the Financial Forecast Paper (BOD/2017/12/DOC 04).

## **6. ENGAGING NATIONAL-LEVEL AND OTHER NON-TRADITIONAL ENTITIES**

6.1 Current eligibility to receive funding directly from the GPE Fund is limited to Grant Agents that are either Multilaterals, Bilaterals, or International NGOs that have completed a satisfactory accreditation process. These organizations can then disburse funds directly to national entities and other non-traditional entities.

6.2 GPE's current funding model which operates in accordance with the World Bank's FIF policies and procedures works well in terms of mitigating fiduciary risks, as it requires that transfers be made to accredited Grant Agents that have in place acceptable fiduciary and management policies, procedures and capacity to ensure the use of GPE funds for their intended purposes.

6.3 With a potential hosting of ECW and finalization of the design of the Knowledge and Innovation Exchange (KIX), and Advocacy and Social Accountability (ASA) mechanisms, there may be a need for GPE to expand the range of actors that can receive funding directly from the GPE Fund. Several DCP Board constituencies have also raised the prospect on several occasions of GPE funding national entities in recipient countries directly ("Direct Access"). While there are potential benefits to such an approach, it would come with increased risk, and associated risk management activities would be essential. This paper is not intended to explore whether GPE should pursue such an approach, but rather aims to begin to outline the potential impact on GPE's institutional arrangements if such an approach is adopted by the Board in the future.

6.4 The World Bank in its Management Framework for World Bank Partnership Programs and Financial Intermediary Funds refers to Direct Access involving:

*"the expansion of implementing agencies beyond the MDBs and UN agencies, to include national entities in recipient countries and other non-traditional agencies such as international NGOs, which use their own operational policies and procedures to prepare, implement and supervise projects funded through the FIF."*

*Direct access may yield important benefits, for example, in terms of capacity building. Because the supervisory function traditionally provided by the multilateral policies and procedures is eliminated with direct access, Partnership Program (PP) governing bodies will establish their own fiduciary and other standards and policies and develop, manage and oversee an accreditation process for their implementing entities. The Bank, as Trustee or implementing agency, has no supervisory relationship over the entities and cannot assume accountability for use of funds.*

*While the accountability of and financial risks to the Bank as Trustee can be limited through legal and other operational agreements with the Bank, misuse of funds by the entities to which funds are transferred could still result in negative reputational impact to the Bank, particularly if the limitations on the Bank roles are unclear or insufficiently communicated. The success of direct access relies on the quality of the fiduciary and other standards and processes established by the FIF governing bodies for approval of these new implementing entities.”*

6.5 The framework identifies three ways in which the World Bank can manage the risks inherent in direct access.

- Legal Capacity: An effective way to manage the risks to the FIF’s resources and to the Bank as trustee inherent is to have the FIF imbued with legal capacity. This entity would then be fully responsible for funding allocation and disbursement decisions, have the legal personality required to enter into agreements with the recipients directly, be fully accountable for the funds once they are transferred, and seek any necessary recourse in the event they are misused. This approach aligns responsibility with accountability; the FIF’s governing body or secretariat makes decisions, and has the commensurate capacity to enter into contracts, and take legal action or be subject to legal action when required.*
- Minimum Standards: An acceptable accreditation scheme establishes a set of minimum standards against which prospective implementing entities are assessed. FIF governing bodies should endeavor to set these standards consistent with international good practice. One potential area of focus is to ensure clear separation of project supervision and execution to ensure good project oversight.*
- Accreditation: A direct access accreditation process should be established by the FIF governing body (not the trustee), whether or not the FIF has legal capacity. FIFs such as the Adaptation Fund and GEF that have introduced direct access have used a certification or accreditation approach to assess the fiduciary standards and implementation capacities of would-be implementing agencies. The governing body of the FIF-funded program manages this accreditation process and decides on the institutions that will be eligible to receive funds.*

6.6 In order for GPE to expand eligibility to national entities or other non-traditional actors to receive cash transfers directly from the GPE Trust Fund with no fiduciary oversight by the existing Grant Agents, the GPE Board will need to develop a proposed accreditation process which represents an acceptable level of risk to funders/decision makers on the use of GPE Trust Fund funds. The Trustee would then review this to determine whether it represented an acceptable level of risk for the World Bank.

6.7 When GPE expanded eligibility to allow International NGOs to receive GPE Funds, it followed this process by developing Minimum Standards and an Accreditation process which was deemed acceptable to the World Bank as Trustee and approved by the GPE Board.

6.8 GPE, however, does not have legal capacity, and it is unclear that a new accreditation process for national entities and other non-traditional actors would provide an acceptable level of risk, as GPE would not have its own legal capacity to enter into agreements directly with such entities. Partnership Programs with FIFs that do transfer funds to national entities and non-traditional actors such as the Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Green Climate Fund, and the Adaptation Fund Board, have their own legal capacity as described in para 6.5 above.

6.9 A significant amount of work would be required to develop an accreditation process that may not be acceptable to the Trustee.

6.10 The World Bank as Trustee has no supervisory relationship over the Grant Agents and does not assume fiduciary responsibility for funds transferred. Since GPE is not a legal entity, however, any misuse or ineffective use of funds by these Grant Agents can have a negative impact to the World Bank's reputation. The World Bank is clear that, since risks related to direct access are likely to be significant for the Bank as Trustee, the World Bank is not supportive of this.

6.11 Meanwhile, the existing Grant Agents (Multilaterals, Bilaterals, and International NGOs) have completed a satisfactory accreditation process which represents an acceptable level of risks for the GPE Board and the World Bank. More importantly, these Grant Agents have the capacity to partner with a number of national entities or other non-traditional actors on the ground, including in fragile and conflict-affected countries.

6.12 One approach could be for GPE to encourage the existing Grant Agents to work more actively with national entities or other non-traditional actors. However, if the Board is interested in pursuing the issue of Direct Access with such entities, then the Secretariat recommends to revisit this issue in 2018 as the ongoing Trust Fund reforms may result in recommendations that could provide further guidance on how this subject should be treated. At that stage, it may also be clear whether GPE is being

recommended as the host of Education Cannot Wait (external review report expected by January 2018), which would necessitate a detailed discussion with the World Bank on potential changes to the FIF.

## **7. KEY ASPECTS OF CURRENT INSTITUTIONAL ARRANGEMENTS**

*a. Key elements of institutional arrangements and how they impact on GPE's capabilities and flexibilities (e.g., legal entity, trustee arrangements, hosting).*

7.1 GPE's institutional arrangements with the World Bank fall into three broad categories

1. Trustee
2. Grant Agent
3. Administrative host of the Secretariat

7.2 Currently, the World Bank can play a number of roles in relation to FIFs including the provision of Trustee services, acting as an Implementing Partner (Grant Agent), and provision of Secretariat support. The extent of the role played by the World Bank in a FIF factors in development needs, strategic relevance, and comparative advantages. While the GPE relationship with the World Bank covers all three aspects, several other FIFs only access some or one of these functions such as those provided by the World Bank as a Trustee and Implementing Partner (Grant Agent).

7.3 For some of the FIFs that the Bank has developed, the Secretariats themselves are external to the World Bank in organizations that have their own legal capacity. Examples include The Global Fund to Fight AIDS, TB, and Malaria where the World Bank plays a Trustee role, and the Green Climate Fund where the World Bank plays a Trustee role along with an Implementing Partner role.

### **Trustee**

7.2 GPE's relationship with the Trustee provides significant benefit for GPE. Costs are highly competitive relative to the services provided, and the Trustee has shown significant flexibility in facilitating GPE requirements, particularly around committing funds and transferring funds to Grant Agents for accelerated funding requests.

7.2 The interactions of GPE and the World Bank as Trustee are similar to how the World Bank as Trustee operates for the majority of other FIFs whether they have legal capacity or not. It is essentially a financial role and includes a set of standard services such as receiving funds, holding funds, investing funds, and transferring them to recipients or other agencies for implementation as directed by the GPE Board.

7.3 Depending on the design of the FIF, other customizable services are also provided for certain partnerships. For example, if the World Bank is able to offer a currency hedging solution, this would

likely result in an addition to the Trustee role, and would have implications for contribution agreements, fees, and possibly the fund governance document. Similarly, if GPE was to proceed with holding contributions in Euros and providing grants in that currency alongside US dollars, it would result in a change to the arrangements and fee structure for the Trustee.

7.4 As GPE does not have separate legal capacity, the Trustee signs the Financial Procedures Agreements with Grant Agents which act as the legal agreement for the transfer and use of GPE funds. Where the World Bank performs this role for Partnership Programs with their own legal capacity, the Trustee will transfer funds based on the terms agreed with the Partnership. It is the Partnership itself, however, that will sign its own legal agreements with recipients.

7.5 The main advantage for GPE of the current arrangements is that there is no need for GPE to have its own legal, accounting, treasury, administrative and other departments, policies and procedures, separate headquarters, etc. The disadvantage is that the GPE Secretariat cannot enter into any legal agreements with third parties.

### **Grant Agent**

7.7 The relationship between GPE and the World Bank in its role as Grant Agent for the majority of GPE funded programs is very much an arm's length relationship the same as GPE would have with any other organization performing the role of Grant Agent. The World Bank signs the same Financial Procedures Agreement as every other entity and is subject to the same requirements.

7.8 Representatives from the World Bank's Education practice participate in GPE's governance arrangements as one of the three multilateral constituencies, similar to representatives from UNICEF and UNESCO who also perform the role of Grant Agent.

### **Administrative Host to the Secretariat**

7.9 With the Secretariat administratively hosted by the World Bank, it is subject to the same policies and procedures as any other administrative unit within the World Bank. The Bank has been very supportive in facilitating the needs of the GPE Secretariat to date

Topic	Practical Implications
<b>Organizational Structure</b>  For administrative purposes, GPE is a Unit within the World Bank's Development Finance (DFi) Vice-Presidency, meaning that GPE's CEO	<ul style="list-style-type: none"><li>• Results Agreements and Performance Reviews for the CEO must be completed with the Vice-President. In practice, these take into account the information provided by the GPE Board Chair</li></ul>

<b>Topic</b>	<b>Practical Implications</b>
holds the position of a Director and reports to the Vice-President of DFi	<ul style="list-style-type: none"> <li>• The reporting structure of a unit reporting to a vice-presidency does mean that the grade level of the GPE CEO is currently capped at Director level, and any consideration of elevating the grade in the future would need to be agreed by the Bank and would have implications for reporting lines.</li> <li>• Administratively certain transactions or exceptions can only be made at vice-president level. Examples would include requests to hire additional staff that have been Board approved.</li> </ul>
<b>Human Resources</b> <p>All GPE staff are employed on World Bank contracts, and abide by the HR policies and procedures of the Bank.</p>	<ul style="list-style-type: none"> <li>• GPE does not need its own compensation and benefits specialists, recruitment specialists, payroll services, or internal justice system. However, it does mean that the GPE Board can't determine its own compensation structure for the Secretariat and must accept changes in HR policies determined by the Bank (e.g. the decision to increase cost recovery charges on staff benefits)</li> <li>• As World Bank staff, GPE has the ability to recruit and locate staff in any country in which the World Bank has presence securing the necessary visas.</li> </ul>
<b>Legal</b> <p>GPE does not have its own legal capacity. The Bank signs Financial Procedures Agreements and Donor Contribution Agreements on behalf of GPE</p>	<ul style="list-style-type: none"> <li>• GPE does not need to have its own legal services, and GPE can rely on the Bank where needed.</li> <li>• GPE staff and assets enjoy the same privileges and immunities as the rest of the World Bank</li> <li>• Without legal capacity, the Secretariat cannot enter into any legal agreements with third parties.</li> </ul>
<b>Procurement</b> <p>GPE procurement processes must respect World Bank policy</p>	<ul style="list-style-type: none"> <li>• Procurement processes are robust and GPE can rely on the systems and support provided by the Bank's procurement services. However, it must fully comply with them. For individual consultancy services (i.e. temporary staff contracts) the Bank can impose limits on the numbers of days employed, which GPE must respect even if it can cause short term operational challenges.</li> </ul>

Topic	Practical Implications
<b>Travel</b>  GPE has discretion on the travel policy to select a lower class of travel for budgetary reasons	<ul style="list-style-type: none"> <li>• GPE benefits from the Bank's purchasing power in terms of negotiated airfares/hotel rates</li> <li>• GPE has access to the Bank's travel agency services</li> </ul>
<b>Security</b>  The full services of the Bank's security services are available to GPE	<ul style="list-style-type: none"> <li>• In practical terms, this involves training for GPE Staff, advisory services, along with evacuation support if required.</li> <li>• Security requirements can impact at times GPE staff members' ability to travel if there are restrictions on the overall number of Bank staff permitted in country at any one time.</li> </ul>
<b>Facilities</b>  GPE does not contract for its own premises, and relies on the World Bank's services	<ul style="list-style-type: none"> <li>• GPE can submit its office space requirements to the Bank and works closely with the relevant Bank team who will secure the premises and support any necessary moves or customization.</li> </ul>
<b>Information Systems and Technology</b>  GPE complies with Bank information systems and security requirements, and must source its development needs through the Bank	<ul style="list-style-type: none"> <li>• While GPE can avail of the benefits of the development and maintenance of core systems such as SAP, it is required to work through the Bank for any customized services and cannot directly contract its own vendors or design systems that are not approved as in compliance with the Bank's information security requirements</li> <li>• This can result in delays in service when there are multiple and often higher value requirements from other administrative units in the World Bank</li> </ul>
<b>Finance and Audit</b>  GPE's operating expenses comply with Bank policies with respect to internal controls, eligible expenditures, and use Bank systems. GPE is subject to the same internal and external auditing requirements as the rest of the Bank	<ul style="list-style-type: none"> <li>• As services, such as treasury, accounts payable, financial accounting, and reporting are centralized, GPE only requires the services of a small number of resource management specialists provided by the Bank which are reimbursed by GPE.</li> <li>• Accounting practices reflect international standards and systems and procedures are robust.</li> </ul>

7.10 The GPE Secretariat's relationship with the World Bank is a collaborative one. Despite reporting functionally to a World Bank vice-presidency within the system, the World Bank to date has provided operational autonomy to GPE's CEO. This has often required that specific approvals and exceptions be provided, particularly on issues of hiring GPE staff during times where the World Bank is implementing

actions to achieve significant savings. The Secretariat is highly appreciative of the flexibility shown by the World Bank.

7.11 As GPE moves forward, it should be recognized that over the past 12 months, the GPE Secretariat has now overtaken the Global Environment Facility to become the largest FIF Secretariat hosted by the World Bank. GPE has an ambitious Strategic Plan and expects significant further growth in levels of overall funding, and with that there is a corresponding need to increase capacity and investment in the Secretariat as outlined in the HR plan. Considering the World Bank's own Trust Fund reform process, and potential hosting of ECW, there will be a need for a strategic discussion with World Bank management on the potential implications on hosting of further significant growth in the size of the GPE Fund and Secretariat over the medium term.

## **8. INSTITUTIONAL ARRANGEMENTS OF OTHER SECTORAL FUNDS**

8.1 The analysis in Annex 1 is not an in-depth examination but rather an overview of a select group of Partnership Programs and potential lessons that may be relevant for GPE.

8.2 It provides an overview of specified partnership organizations operating to execute disbursements and use funding in support of global development goals such as health and climate and compares legal status (hosting arrangements if applicable) FX hedging capacities, Secretariat size and outbound grant mechanisms, including the use of grant agents to administer and monitor and evaluate grant fund usage and impact.

8.3 A key lesson that GPE can take from the experience of other partnerships with legal capacity, is that they have more flexibility in terms of how they can operate compared to partnerships that must operate within the legal framework and policies and procedures of their host. However, some of these organizations with legal capacity have either had to establish their Secretariat outside of a hosting relationship, or to transition their Secretariat from the host. For those that have separated, the larger the Secretariat, the more complicated and costly the transition is.

## **9. NEXT STEPS**

9.1 The next steps will be guided by the Board's deliberations and decisions in December. However, the Secretariat will continue to engage with the World Bank on the potential solutions for currency hedging and report back to the FRC and Board at the first meeting of 2018 when further information on the implications for GPE may be available. External expertise will be utilized when needed to advise the Secretariat and FRC.

9.2 With respect to the issue of Direct Access, the Secretariat's recommendation is that the Secretariat should not actively pursue the development of an accreditation process to expand the range of entities that may receive GPE funding directly to national entities (e.g. Ministry of Finance/Education) and other non-traditional actors at this stage. Rather, the Secretariat recommends this issue be considered in the context of the ongoing Trust Fund Reform process in the World Bank, and when greater clarity on ECW hosting is known.

9.3 The Secretariat will continue to engage with the World Bank on how best to handle any potential organizational and staffing implications arising from GPE's evolving mandate, strategy and business needs.

**10. PLEASE CONTACT:** Padraig Power at [ppower@globalpartnership.org](mailto:ppower@globalpartnership.org) for further information.

## **ANNEX 1 – INSTITUTIONAL ARRANGEMENTS OF OTHER SECTORAL FUNDS**

### **(I) Global Fund for HIV/AIDS, TB and Malaria**

Purpose: The Global Fund for HIV/AIDs, TB and Malaria is designed to accelerate the end of AIDS, TB and Malaria as global epidemics through a partnership between, governments, civil society, and the private sector.

#### Topics for Comparison:

Legal status: The Global Fund was established as a Swiss foundation in 2002 and registered with the Swiss Supervisory Board of Foundations. The Board of the Global Fund is and has been the Board of the Swiss Foundation and the Global Fund's legal personality and capacities were originally those of a Swiss Foundation, to which special recognition of its international nature was granted by the Swiss Foreign Affairs Department in the form of a Headquarters Agreement, granting the types of privileges and immunities that are accorded to treaty-based international organizations.

The Global Fund's Board included State and non-State actors, blending the public and private sectors in the governance structure. The Global Fund was also recognized as an “international organization” by U.S. Executive Order and has since been “recognized” by Moldova, Georgia, Montenegro and several African States. The Global Fund's legal capacities are those of a Swiss Foundation (e.g., capacity to contract, hold tangible and intangible property and assets and the normal rights and capacities of a non-profit organization) with additional privileges and immunities in those countries recognizing the Global Fund as such.

Secretariat. (Approximately 700 Staff) The Secretariat was originally hosted by WHO, which means that Global Fund employees were WHO employees subject to WHO's Rules and Regulations, including those governing HR matters. In December of 2008, the Secretariat de-hosted from WHO and Global Fund staff became employees of the Global Fund (Swiss Foundation) entity. Global Fund staff numbers at that time were approximately 250 staff. The de-hosting exercise was difficult in that some staff members did not wish to leave the WHO HR environment, including its benefits systems.

The Secretariat Staff while hosted had dual “reporting lines” due to the duty of loyalty owed by all WHO staff to the WHO Director General and the reporting lines to the Global Fund Board; legally the Board of a Swiss Foundation. This meant that as a governance and operating matter, hosting created an additional layer of potentially conflicting legal and administrative obligations for Global Fund staff until the Secretariat de-hosted from WHO.

Trustee Services. The Global Funds ODA finance has been historically managed via Trust Fund held by the World Bank serving as Trustee. Trustee services include accepting contributions into the Trust Fund in the form of cash, promissory notes, letters of credit etc. and disbursing funds on written instructions from the Global Fund. Once funds are disbursed, the World Bank has no further responsibility or liability for the use by any recipient of funds transferred from the Trust Fund (excluding funds disbursed to the World Bank acting as Grant Agent for programmatic work). The World Bank asserts its privileges and immunities as an international organization to apply to the assets, operations and transactions of the Global Fund's Trust Fund.

**FX Hedging.** According to the Global Fund's annual Independent Auditors Reports, Statements of Receipts, Disbursements and Fund Balances, the Trustee does not hedge against FX movements and thus its Trust Fund assets recognize gains and losses on FX movement to the US\$. However, for funds held directly by the Global Fund entity (outside the World Bank) the Global Fund utilizes an FX hedging strategy under its Global FX Management Framework. The framework applies risk limits – (the “Value at Risk method” model) which considers potential loss, the probability of losses caused by FX movement over various periods. The Secretariat applies the FX hedging framework to enter into forwards and swaps, partially de-risking FX movement for those assets held in commercial banks outside the World Bank Trust Fund.

**Grant Agents and Administration.** The Global Fund issues grant funding to National Entities, International organizations and non-State actors (e.g., International and Local NGOs) after a detailed due diligence process that includes: assessing capacity of the grant recipient and its experience, internal controls and systems, workplan. As it does not have in-country presence, it uses Local Fund Agents (“LFA”) to conduct the assessments of capacity, and review periodic workplan progress and use of grant funds and oversees verification exercises of results and reporting data. LFAs include organizations like PWC and KPMG among others. It also has within the Secretariat, an independent oversight function, and multi-disciplinary functional specialist teams (Finance, Procurement, M&E, Legal) that provide an additional layer of oversight.

## **GLOBAL FUND LESSONS LEARNED - INFORMING POSSIBLE GPE MODELS**

- GPE does not have legal personality.
- The Global Fund has legal personality and that provides capacity to:
  - Contract, for staff, with grant recipients and LFAs, with donors and other stakeholders, for services (including banking and FX hedging transactions), to purchase goods, lease office space etc.
  - Own, hold and dispose of property, assets and funds.
  - To create and manage aligned governance and operational platforms and mechanisms reporting to the Board.
  - To create and manage monitoring and evaluation systems, audit systems and dispute resolution mechanisms and processes.
- Should GPE ever decide to de-host, it can learn from the Global Fund experience that moving staff from international organization HR systems and contracts to HR systems and contracts of an independent legal entity is a complex migration exercise especially when done over a short period. In GPE's case, this would be exacerbated by the potential need to relocate staff to a location that provided the required legal status. The larger the Secretariat the more complicated and costly the process becomes, and risks to disruption of service due to loss of personnel could be expected. To mitigate such risks, a well-planned and resourced implementation plan over a sufficiently lengthy transition period can ensure the policies and systems of an independent entity are robust and developed as economically and efficiently as possible, while the impact of staff turnover can be better managed.

## **(II) GAVI**

Legal status: GAVI Alliance was founded by acclamation of a “proto-board” comprised of representatives of stakeholders, including WHO and UNICEF, in 1999 after an announcement at the WEF. At establishment, the Alliance was not a legal entity and had no legal personality. The GAVI Secretariat was hosted by UNICEF and GAVI “staff” were on UNICEF contracts. The GAVI Board was not the Board of a legal entity.

Two separate legal entities were established in the U.S. and France respectively, as non-profit fund-raising entities, each of those entities had independent Boards and had legal personality and capacity, hiring its staff under the national law systems of the U.S. and France respectively.

In 2007, the GAVI Foundation was established a Swiss foundation, registered with the Swiss Supervisory Board of Foundations. In 2009, GAVI was reorganized into the GAVI Foundation, which had applied for recognition by the Swiss Foreign Affairs Department in the form of a Headquarters Agreement. GAVI was granted the types of privileges and immunities that are accorded to treaty-based international organizations: same as Global Fund Status in Switzerland. Staff from the US and French entities were largely transitioned to the Swiss entity and GAVI staff hosted by UNICEF were de-hosted to become GAVI staff.

At that time, GAVI’s Board became the Board of the GAVI Foundation and included State and non-State actors, blending the public and private sectors in the governance structure. GAVI has not been recognized as an “international organization” by any other country.

Secretariat. (Approximately 300 Staff) As noted above, the Secretariat was originally hosted by UNICEF. Similar to the experience of the Global Fund, GAVI the de-hosting exercise was difficult in that some staff members did not wish to leave the UNICEF HR environment and benefits systems.

A dual reporting line existed for GAVI staff similar to that inherent in the Global Fund’s dual structure from its inception. However, there was no legal/fiduciary duty owed by the GAVI Board or by GAVI staff to the GAVI Board because it was not the Board of a legal entity.

This meant that as a governance and operating matter, hosting created an additional layer of potentially conflicting legal and administrative obligations for GAVI staff until the Secretariat de-hosted from UNICEF.

Trustee Services. Initially, UNICEF provided Trust Fund services to GAVI. The fact that UNICEF also provided programmatic support including vaccine procurement services, created conflict of interest and other challenges arising from the hosting relationship.

After de-hosting from UNICEF, GAVI managed its own funds and assets, in bank accounts held in Switzerland, and subject to GAVI’s privileges and immunities. One of the beneficial attributes of having assets managed within an MDB or other International Organization is the privileges and immunities enjoyed by the trustee’s international legal status. Further, for “partnerships” that are not legal entities (as GAVI was not at inception) the trustee relationship creates the operating capacity to contract, enter into grants and other matters, on the host’s paper and allows donors to score the “donation” as multilateral ODA for OECD reporting purposes.

FX Hedging. UNICEF did not provide FX hedging services to mitigate donor currency exchange risk. When GAVI de-hosted, it was able to implement hedging transactions as an independent legal entity. Today, GAVI's FX exposure is actively hedged based on near-term expected FX movement against the US\$. Some donor grant commitments are hedged at between 75% and 100% of exposure looking forward two years, based on experience with those donors. For announced pledges, hedging is reduced to 60% to 100% of exposure for the year after announced and between 40% to 100% for the subsequent year. GAVI poses limits on the types of instruments, the credit rating of the counterparty and the amount hedges with any one counterparty, up to US\$50mn.

The World Bank does serve as treasury function for a separate legal entity, the IFFIm, established as a charity under English law. IFFIm's purpose is to issue debt/bonds in capital markets backed by legally binding long-term sovereign agreements of committed by several sovereign states (generally 20 years in length). The sovereign credit ratings of the multiple donors flows through to the Bond rating under a formula. Bond proceeds are granted to GAVI for programmatic support. The legally binding nature of those sovereign grant agreements allows the World Bank to provide hedge transaction intermediation services to IFFIM.

Grant Agents and Administration. GAVI's principle funding activity, is the procurement of vaccines via UNICEF for distribution to GAVI beneficiary countries. GAVI also makes cash grants directly to countries and to NGOs and International Organization partners, though its partners' engagement framework (PEF). PEF funding supports "targeted country assistance, strategic focus areas and foundational support." The PEF was initiated in 2016 and clarifies grant recipient and partner roles including results and accountability monitoring and evaluation.

The PEF provides resources to technical assistance to countries a shift from prior programs which funded technical assistance at the global and regional levels.

## **GAVI LESSONS LEARNED - INFORMING POSSIBLE GPE MODELS**

- Same as lessons learned for Global Fund above.
- Even with 95 staff within UNICEF at the date GAVI de-hosted those staff members, the GAVI de-hosting exercise, was complex and difficult; and some staff did not migrate.
- Generally, a hosted program with no legal personality is limited and may be unable to fulfill basic functions efficiently to achieve the development expected by stakeholders, particularly beneficiary countries. Hosting arrangements complicate and add legal layers which are not present in aligned governance and operational structures facilitated by legal personality.

### **(III) The Global Environment Facility**

Legal status. The GEF is a funding coordination mechanism for several international conventions, including the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention on Biological Diversity (UNCBD), the Stockholm Convention on Persistent Organic Pollutants (POPs), the United Nations Convention to Combat Desertification (UNCCD), and the Minamata Convention on Mercury.

The GEF is not a separate legal entity with separate legal personality. Its founding Instrument (Revised 2015) established governance coordination bodies but not a new entity. GEF is a coordination

arrangement among 183 Member States. Its governance bodies include: (1) An Assembly representatives of all Member State participants and it meets every three years. Its function is to review the general policies GEF, evaluate the GEF's operation, and review GEF membership criteria; and (2) The Council which is responsible for "developing, adopting and evaluating the operational policies and programs for GEF-financed activities" and overseeing the work of the Secretariat. The Council is comprised of 32 Members elected as representing constituency groupings.

Secretariat. (Approximately 100). The Secretariat is hosted by the World Bank, so all staff are on World Bank contracts. The CEO has the status of Vice-President in the World Bank structure, and has the authorities accorded VPs under World Bank rules and regulations.

Trust Services. The World Bank serves as Trustee.

FX Hedging. According to a GEF Report the World Bank and GEF had been discussing hedging support to mitigate FX slide against the US\$ however it has not been implemented. The report cites the need to engage with "individual donors to address these risks based on their willingness and ability to adopt a hedging strategy, clarity around legal aspects of hedging transactions, associated cost, etc." In the meantime, the World Bank holds a "level of financial reserve estimated at approximately 15% of unencashed promissory notes" committed by donors, which could be called to bolster the GEF Trust Fund to mitigate against "adverse exchange rate fluctuations without unduly constraining the programming ability of the GEF."

Grant Agents and Administration. GEF Agencies are responsible for creating project proposals and for managing GEF projects. There are eighteen institutions acting as GEF Agencies, nearly all of which are international organizations formed by Member States. GEF Agencies in turn manage GEF projects on the ground and assist governments and NGOs "in the development, implementation, and management of GEF projects."

GEF, through UNDP, administers a small grants program ("SGP") for amounts up to a maximum of US\$50,000 and up to US\$150,000 for "strategic projects." Proposals must demonstrate:

- How the proposed project proposal meets the GEF SGP criteria by articulating how project objectives and activities would have an impact in the SGP areas of work -GEF focal areas.
- How they respond or are aligned to the targets and objectives of the SGP Country Programme Strategy.
- Be proposed by national CBOs and NGOs.

The GEF also provide access to concessional loans and through its non-grant instrument programs.

## **GEF LESSONS LEARNED - INFORMING POSSIBLE GPE MODELS**

- GEF's governance bodies are comprised only of member state representatives; as such it is different from GPE's partnership model which includes non-State actors and other international organizations in its Board and Committees.
- GEF's lack of legal capacity means that it must operate only through World Bank processes. Since all of GEF funding is in a Trust Fund and it does not own and hold assets outside the World Bank, GEF cannot hedge or conduct other innovative finance transactions in its own name.

- The GPE Secretariat and operating expenses budget now exceeds that of the GEF, with GPE potentially growing further over the coming years. GPE however is a Unit within the World Bank with the CEO reporting to a Vice-President (responsible for several Units) which means that transactions and approvals must be authorized by the Vice-President rather than the CEO. The CEO of GEF on the other hand has the status of Vice-President.

#### **(IV) Global Finance Facility for Every Woman Every Child**

Legal status. The GFF is a multi-stakeholder partnership without legal personality. GFF governance is comprised of two bodies: (1) the GFF Investors Group for the Global Strategy with representatives of donors, public and private. Its function is to coordinate funding to help ensure the GFF's goals and objectives are met; (2) The GFF Trust Fund Committee takes funding decisions and oversees Trust Fund operations and the GFF Secretariat. At present, since the initiative is very early stage, the same individuals serve on both governance bodies.

Secretariat. (Small number of staff plus secondees). GFF staff are on World Bank employment contracts.

Trustee Services. The World Bank serves as trustee.

FX Hedging. None; the organization is very early stage.

Grant Agents and Administration. At this early stage, GFF funding is integrated into IDA/IBRD projects, which have been approved by the World Bank per its policies and procedures.

#### **GFF LESSONS LEARNED - INFORMING POSSIBLE GPE MODELS**

- Nothing additional to the lessons from other hosted partnership that do not have legal personality.

#### **(V) Green Climate Fund**

Legal status. The GCF is an international organization incorporated in the Republic of Korea through the establishment of a headquarters agreement. In its Founding/Governing Instrument, the GCF asserts that it has legal personality and capacity "as is necessary for the exercise of its functions and the protection of its interests." Further, GCF has privileges and immunities in the Republic of Korea established through the headquarters agreement in December 2013. It is governed by a 24-member Board comprised solely of U.N. Member States. There are no non-State actors in the Board although there are 4 active observers representing civil society and the private sector.

Secretariat. (Around 110 staff but expected to rise to 180 by end of 2018). The Secretariat is based in Songdo, Republic of Korea and operate as the staff of the GCF international organization.

Trustee Services. The World Bank is the current interim trustee for GCF. A permanent trustee is to be appointed by the end of 2017.

FX Hedging. There is no active FX Currency hedging service in place.

Grant Agents and Administration. The GCF has a complicated process for accrediting organizations as potential funding recipients but it is functional. The GCF Accreditation Policies and Standards include

Fiduciary Standards, Environmental and Social Safeguards, Information Disclosure, Gender Policy etc. Accredited entities may be States, International Organizations, and NGOs and must meet the GCF standards.

There are two types of Accredited Entities: Direct Access Entities and International Access Entities: (1) “Direct Access Entities are sub-national, national or regional organizations that need to be nominated by developing country National Designated Authorities (NDAs) or focal points.”; (2) International Access Entities including the United Nations agencies, MDBs IFIs and other regional institutions.

Since the GCF has its own legal personality and capacity, it can enter into funding agreements directly with Accredited Entities and need not rely on the World Bank to enter into those agreements or vet (or monitor) those entities on its behalf.

### **GCF LESSONS LEARNED - INFORMING POSSIBLE GPE MODELS**

- The GCF was created under the UNFCCC United Nations Framework Convention on Climate Change (UNFCCC). The Conference of the Parties to that convention can also close it and wind it up. It was not created by treaty but its legal status was established through a headquarters agreement with the Republic of Korea
- GPE is not formed under treaty either, so if legal personality was required, it may need to seek another route to recognized legal personality like the GCF, either through a new treaty or some other recognition mechanism such as a headquarters agreement with a participating State. This is similar to the mechanism used by the Global Fund for HIV/AIDs, TB and Malaria; where interested Member States accord the GPE recognition per a declaration of support or MoU, backed by a headquarters agreement with Switzerland.