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How to Address the Carbon Market Community Engagement Gap

Exploring a Pooled Fund for Community Legal and Technical
Support



Introduction

In September 2024, during [UN Climate Week](#) in New York, the [Rights and Resources Initiative](#), [Namati](#), the [Grassroots Justice Networks](#), and [Rights CoLab](#) convened an [expert workshop](#) on how to provide legal and technical support to address the challenges that affected communities face in the context of nature-based solutions, including voluntary carbon and biodiversity credit projects.

The workshop aimed to generate a better understanding of:

- The specific types of support needed by communities affected by carbon credit projects and how best to deliver that support; and
- How to marshal funding for and implement a pooled fund that could finance that support.

The idea of a pooled fund for community legal and technical support has evolved over many years. In 2020–2022, Namati conducted consultations with hundreds of private sector, civil society, philanthropic, and government actors to identify a pathway to implement a pooled fund. In 2023, Rights CoLab and [Just Ground](#) joined Namati and the Grassroots Justice Network to further test this idea in joint workshops with civil society and private sector representatives and [produced a brief](#) reflecting the learnings and consensus that emerged, including the core principles that should govern such a fund (see Annex II).

The brief provides the rationale and conceptual framework for a pooled fund for community legal and technical support, but many questions remain to be answered. This workshop aimed to fill in some of these gaps, with a specific focus on the voluntary carbon and biodiversity credit markets.

Over 30 people attended the workshop, including rightsholders, civil society representatives, environmental NGOs, donors, and industry and private sector representatives. The session began with an introduction describing the outcome of prior research and engagements on the pooled fund concept. Participants then had breakout group discussions centered on the two themes listed above. A final plenary discussion focused on developing concrete next steps toward implementing a pooled fund in the voluntary carbon and biodiversity credit markets. This document provides a brief overview of the workshop discussion and outlines next steps. It serves as a guide to further efforts to implement a pooled fund for legal and technical support for communities impacted by carbon credit projects in pursuit of more just, transparent, and equitable climate and conservation actions.



Context

Rights and nature-based solutions

Across the world, Indigenous Peoples (IPs), Afro-descendent Peoples (ADPs), local communities (LCs), and the women and youth within these groups face increasing pressure for engagement in nature-based solutions to the climate and biodiversity crises. By themselves, fulfillment of [Nationally Determined Contributions](#) (NDCs) to climate change mitigation will nominally require more than [900 million hectares of land](#) for enhanced carbon sequestration activities; [30 percent of the world's lands and marine areas](#) are to be placed under conservation management by 2030; and private sector reliance on [voluntary carbon markets](#) is only expected to grow in the coming years. Communities are also increasingly confronted by limited long-term financing options and the systematic failure of developed countries to honor their financial pledges to the Global South. As such, all are subject to the growing demand for land, resources, and ecosystem services found in community-controlled areas.

Yet despite calls for increased integrity and oversight, voluntary carbon markets are largely unregulated; governments routinely sign bilateral agreements with little or no consultation with affected communities, and rightsholders are mostly left on their own when it comes to negotiating complex agreements. [Evidence to date](#) shows that few countries have the requisite legal framework to support the fair and equitable creation and sale of carbon credits.

Experience to date points to persistent gaps between private sector commitments to appraise Indigenous rights and human rights risks in land-based projects and interventions, and efforts to directly engage with affected communities on these issues. Underpinning these challenges are the considerable knowledge and information asymmetries that undermine rightsholders' ability to engage as equals and the persistent gaps in the legal recognition of collective land and resource rights (including rights to carbon) that undermine their legitimacy to do so. Few communities hold the necessary technical and/or legal resources to negotiate agreements that are fair, transparent, and accessible, providing equitable sharing of benefits, safeguards for traditional knowledge, and alignment with their rights and self-determined priorities.

Echoing the barriers to meaningful community engagement outlined in the [brief on the pooled fund](#), and raised during the 2023 [Climate Futures Dialogue](#) and [Roundtable Discussion on Carbon Markets](#), as well as the more recent gap analysis of communities impacted by land-based investments, the starting point for the 2024 workshop on rights-based climate action was grounded in the numerous challenges that rightsholders must contend with in the context of voluntary carbon markets.

Overcoming the status quo in land-based investments

The need to level the playing field between market proponents and affected rightsholders is critical to the realization of high-integrity carbon credit standards and efforts to protect the environmental and human rights of communities. To these ends, IPs, LCs, ADPs, and their allies are increasingly calling for the adoption of more rigorous [carbon justice principles](#), even taking matters into their own hands to [develop guidance](#) on how to establish more just, transparent, and equal relationships between carbon market actors and affected communities.

Such efforts are neither new nor unique. But contrary to earlier results-based payment schemes and the ample support communities and countries received for REDD+ readiness, current market-based initiatives do not provide parallel funding to support community learning, engagement, and decision-making. Communities may obtain capacity-building support from project proponents or other carbon market actors, but such initiatives tend to reinforce dominant power structures and fail to treat rightsholders as sovereign partners in the delivery of carbon credit project results. Project proponents' main objective in consultations and capacity-building is often to persuade communities to agree to a carbon credit project rather than to provide rightsholders with the resources and support they need to decide whether or not to engage.

And the reverse is also true. The lack of recognition of IP, ADP, and LC rights increases the reputational and liability risk for buyers and investors. In the absence of clarity on how free, prior, and informed consent (FPIC) processes are conducted, the extent to which communities are provided with complete, transparent, and locally adapted information, and whether carbon or biodiversity credits generated by a project provide fair compensation to affected communities, buyers have little reason to trust the integrity claims of project developers, further dampening their social license to operate, the overall value of the credits, and the confidence that public and private actors place in carbon markets.

The need to address these shortfalls has gained broad recognition in the last couple of years. There is now a critical mass of public and private actors—including Indigenous and community organizations and representatives, civil society organizations and human rights experts, carbon credit standard setters and project developers, funders, and multilateral institutions—who are eager to find robust and sustainable solutions to the social integrity challenges of carbon markets and those that will likely confront biodiversity crediting markets.

To these ends, three key needs have been identified:

- Communities need a system that is accessible, culturally aware, and responsive to their needs for trusted/independent legal, technical, and commercial advice and support providers;
- Investors need a streamlined way to manage risks and check compliance; and
- Companies need a mechanism to ensure communities have support without creating a conflict of interest.



Workshop Discussion

Workshop participants were invited to discuss the types of support that communities affected by carbon credit projects need, how best to deliver that support, and how to marshal funding for and implement a pooled fund.

To begin the process of addressing the many challenges associated with the development of a mechanism to provide independent legal and technical support to rightsholders engaged in or affected by carbon and biodiversity credit projects, workshop participants were invited to discuss and share ideas around two key questions. The following section summarizes the inputs received from the roundtable discussions.


Identifying the support communities need and exploring how best to deliver it

Participants were divided into five breakout groups to discuss two guiding questions on how to ensure a pooled fund would serve communities' needs. Following the discussion, each group reported back what they discussed. The below themes emerged from these conversations.

Question 1: How do we operationalize legal and technical support to rightsholders?

Community leaders and legal experts: There is a need to identify who needs technical and legal support in the context of community-level sovereignty; funding support should be directed to trusted leaders and experts within communities who know the local and customary laws and politics. In alignment with community self-determination, priority should be given to strengthening the capacity and autonomy of community-level lawyers and paralegals who are best placed to provide culturally appropriate and locally based assistance instead of furthering reliance on external experts. Trusted resources may bring in other experts during various phases (for example, from a pool of experts), but the focus should be on training that stays in the community.

Rights recognition: Rights and equity in the context of carbon and biodiversity credit markets cannot be disassociated from community struggles for the legal recognition of their rights to land, resources, and self-determination. Formally recognized rights should thus be central to the development of the proposed pooled fund mechanism and the process of achieving such ends should be guided by an independent council of communities.



Sovereign partners: Rightsholders must be equal partners in designing and establishing the pooled fund mechanism and pathways for providing support. IPs, ADPs, and LCs are not beneficiaries of carbon credit projects but rather should be seen and treated as self-determined, sovereign nations. A contract is a form of treaty with a community, making rightsholders equal partners, leaders, and shareholders in a project.

Scalability and trust: Given the supply gap for legal and technical support to communities due to the limited availability and number of legal organizations and resources, how would support be scaled up to meet demand? It is crucial that communities feel they can trust the external support provided, but how can trusting relationships be made scalable? To accomplish this, the fund could leverage existing structures that bring together IPs, ADPs, and LCs in different geographical areas, such as the Mesoamerican Alliance of Peoples and Forests (AMPB), the Articulation of Indigenous Peoples of Brazil (APIB), Coordinator of Indigenous Organizations of the Amazon River Basin (COICA), Aliansi Masyarakat Adat Nusantara (AMAN), and the Network of Indigenous and Local Populations for the Sustainable Management of Forest Ecosystems in Central Africa (REPALEAC), among others.

Bureaucracy and organization: How can the funding mechanism avoid bureaucracy and high transaction costs? Would it be better to have multiple regional funds rather than a centralized fund? Can we leverage trust-based funding models like the Home Planet Fund?

Localization: How can we [localize](#) the proposed funding mechanism? Can we work with established Indigenous and territorial funds or leverage best practices from these funds to ensure regionalization?

Fund scope: Communities will require a range of support at all stages of a carbon credit project (design, negotiation, implementation). The fund will require a clear definition of the forms of support communities can access. Additionally, the mechanism's role needs to be clarified: Is the objective to provide access to legal and technical support, ensure access to dedicated funding to support such ends, or both?

Rightsholder use: How do we ensure rightsholder accessibility and use of the mechanism? This will require legitimacy, trust, leadership, and buy-in from rightsholders; accessible language and procedures that are [fit for purpose](#); and sufficient funds and support resources to address needs. Leveraging existing structures with strong relationships with communities can help address these needs.

Question 2: What approaches would best deliver timely, effective, efficient, and complete support to rightsholders?

Accessible language: Language and culture are often barriers when community leaders speak with outsiders. These challenges are exacerbated by the highly technical terminology around carbon markets, which is not always translated or culturally accessible. Communities need culturally based support that understands their culture, politics, social customs, and legal and governance institutions.

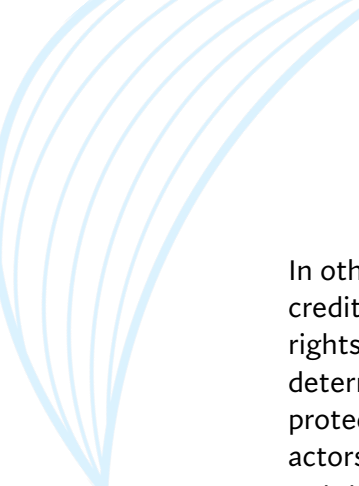
Women and youth engagement: A rights-based approach to legal and technical support also requires that the rights of those at risk of exclusion in the community have mechanisms to directly access and engage in negotiations and decision-making when a carbon credit project proponent approaches a community. Particularly, the fund should provide support or requirements that promote and condition resources on the active inclusion of women and youth and the protection of their rights to political participation, participation in public life, and decision-making.

Community-based: How do we ensure the support provided by the pooled fund is effective and accessible to communities with different levels of expertise so that knowledge around carbon markets can become embedded within communities long-term? Existing IP, ADP, and LC structures can help identify appropriate support and how to make it accessible.

Sourcing support providers: It will be crucial to determine who will provide legal and technical support to communities (pro-bono lawyers, legal community empowerment organizations, community paralegals, technical experts) and how these organizations and experts will be identified and mobilized. There are a number of trusted civil society organizations currently providing legal support to communities. The fund will need to consider how to fill existing gaps in support to communities to meet demand, build on best practices for legal empowerment, and identify how to leverage existing civil society support.

Responsive support: Given the diverse needs of communities that may emerge during carbon credit project design, negotiation, and implementation and monitoring, how do we ensure timely and need-appropriate support?

Capacity-building: Discussions around *capacity-building* often suggest that rightsholders lack expertise and knowledge; however, it is important to recognize Indigenous scholarship and knowledge production, as well as their skills and practices as stewards of the world's natural resources. Additionally, while communities need extensive support to both understand or respond to proposed carbon credit projects, public and private actors who wish to benefit from nature-based solutions also lack a clear understanding of the rights, livelihoods, and aspirations of affected communities.



In other words, capacity-building needs to go both ways. The latter includes carbon credit project proponents' lack of knowledge and understanding of the existence of rightsholders in the areas they target and an over-reliance on governments to determine whether communities exist or are impacted by their activities. Respect, protection, and promotion of the human rights of IPs, LCs, and ADPs by private sector actors must occur regardless of the status of the rights recognized under formal law by a state. Within the context of this initiative, priority will be given to the needs of rightsholders.

To achieve social integrity, all stakeholders—communities, governments, public and private actors—need both legal and technical capacity-building and support. There is a need for direct dialogue with investors and buyers. Accordingly, the fund would need to be multifunctional, *but from the standpoint of workshop organizers, the needs of communities are categorically different from those of governments and public/private project proponents.* The latter already have access to support and/or have the means to obtain it, whilst the former must rely on the limited available funds of allied organizations.

Exploring how to marshal funding for and implement a pooled fund

For the second thematic discussion, participants were divided into five breakout groups to discuss how to establish and implement a pooled fund based on two guiding questions. Following their group discussion, participants returned for a broader plenary discussion. The below themes emerged from these conversations.

Question 1: How do we create a pooled fund that can support rightsholder needs and strengthen integrity, and how do we operationalize such a fund?

Implementation modalities: Should there be one centralized fund, or should it be decentralized? Can the pooled fund be a sub-fund within an existing global mechanism, like [CLARIFI](#) or another Indigenous-led funding mechanism? Regardless of the structure, the funding mechanism should be led by IPs, ADPs, and LCs to ensure impartiality and freedom from private sector influence, and that it is aligned with the needs and realities of communities. Rather than a global fund, a regional approach might be less bureaucratic and more responsive to local needs since each region and country has its own idiosyncrasies.

Local pilots: Pilot mechanisms can be used as a starting point to generate learnings on best practices to determine the best funding mechanism model. Pilots will be needed to assess the efficacy of the selected approaches and the feasibility of scaling up

thereafter. The working assumption of these initiatives is that communities that have technical and legal support result in better outcomes for both climate and people.

Leverage existing funds: Creating a whole new fund requires a lot of time and resources; if this expertise is needed quickly, it might be best to piggy-back onto a fund that already exists that we can invest in instead (like [CLARIFI](#) or another IP-led process, such as the [Shandia](#) mechanism). These mechanisms have already invested years in developing good governance structures and ensuring rightsholder leadership. By embedding the fund within an existing mechanism, the fund can build upon strong relationships with rightsholders rather than starting from scratch to build legitimacy and trust. Fully integrating this pooled fund within existing financing mechanisms will require engagement with their leadership as well as with local organizations who already receive grants under these mechanisms to best understand how the pooled fund could go beyond pilot cases and be embedded within the mechanism.

Data subscription and sovereignty: Another idea could be to consider a data subscription service instead of a fund (or as part of the fund), where investors or market players (banks, governments) pay for high-quality, vetted information (locations, communities, groups, deals, possibilities) to make better decisions on their investments, including the terms and conditions of those investments. However, the importance of data sovereignty must be well established at all times to ensure that control stays within the communities.

Funding priorities: The mechanism should consider adopting three funding priorities: i) *readiness support* to raise awareness, build capacities, and reduce the likelihood of risks at the local level; ii) *negotiation support* to accompany communities throughout contract negotiations, ensuring they have access to complete and transparent information on the nature of a carbon or biodiversity credit project, including potential benefits and risks; and iii) *monitoring support* to track the impacts of a project (both positive and negative) during and following implementation, including the extent to which project proponents honor their own commitments (for example, respect agreed upon conditions related to the sale of carbon credits).

Fund blindness: How blind should this fund be? If it is blind (that is, project proponents would not know how their funds will be used and by which communities), would this weaken the business case for the private sector to contribute to the fund? Should there be a way to earmark funds for a particular community without the project proponent having a voice in how the funds are used? How can the fund structure ensure that funders do not have control over how the money is spent by the community? It is crucial that the fund's management is comprised of independent people with no direct relationship with the buying and selling of carbon credits.

Question 2: How do we create compliance among market actors (carbon credit buyers, project proponents, and standard setters)? That is, how do we get the fund funded?

Private sector engagement: How can we get the private sector to participate in this fund? The emphasis should focus on starting small and scaling up to build the narrative and business case to incentivize private sector actors to engage (for example, we could look into the Corporate Sustainability Due Diligence Directive).

Business case development: To get buy-in from project proponents and investors to participate in the fund, it will be important to build the business case, showing how investing in the fund supports their interests. Quantifying the legal and reputational risks to investors when community rights are not respected and demonstrating that the success of a carbon project depends on community buy-in could help build private sector support for the fund.

Mandatory contributions: Company or private sector payments into the fund ought to be mandatory to ensure legitimacy, that is, part of the cost of carbon credits or another imposed levy. Voluntary contributions will be difficult to motivate. Standard bearers, such as the Integrity Council for the Voluntary Carbon Market (ICVCM) may be a good tool to encourage compliance with contributions to the fund. It will be important to engage with both standard bearers and the private sector to ensure their participation and support.

Identifying key contributors: Which actors might have a financial incentive to participate in the fund? How do we ensure big players in carbon and biodiversity credit markets contribute? Key stakeholders can demonstrate their commitment to high-integrity initiatives and serve as leaders to help mobilize others to contribute as well.

Market stability and growth: If the rules of the game give carbon markets more stability and clarity to grow in more reliable ways, would investors be willing to pay into the pooled fund? How would we pay out funds to communities on an equitable basis across different carbon credit projects?

Conclusion

The purpose of this initiative is to place rightsholder leadership and sovereignty over the use of their lands and territories at the heart of nature-based solutions. IPs, ADPs, and LCs need to be recognized as equals and partners in the delivery of dedicated carbon and biodiversity credit initiatives. This requires respect for their distinct cultural norms and values, their customary governance institutions, and their right to give or withhold consent to a project. Access to independent legal and technical support is critical to

ensuring the fair and meaningful participation of rightsholders in the design, implementation, monitoring, and results of carbon and biodiversity credit initiatives.

Next steps

As a closing exercise, workshop participants were asked to prioritize key actions needed to move this agenda forward. The following outlines the key elements noted in this process and the core elements that will shape planned discussions and follow-ups in 2025.

Establish a rightsholder-led steering process

- Establish a steering group, prioritizing Indigenous and community leadership and the involvement of civil society organizations, standard bearers and credit agencies, and other Indigenous and human rights experts to guide inquiry on the funding mechanism, oversee targeted research, and develop and implement pilots to test emerging solutions and pathways.
- Secure funding to support community participation in all fund-related discussions and processes.
- Engage dedicated rightsholder platforms such as the Global Alliance of Territorial Communities and the ICVCM Forum.
- Establish a virtual meeting schedule and plan for an in-person follow-up workshop during UN Climate Week in New York in 2025.

Determine the fund's scope and approach

- Set clear milestones for the development of the funding mechanism.
- Nail down the scope of the fund and the types of support needed by communities relative to carbon and biodiversity projects.
- Assess private sector support by looking at what would incentivize their contribution and what their needs are.
- Engage existing funding mechanisms at global and regional levels (for example, CLARIFI and various Indigenous-led territorial funds) to assess fund management feasibility.
- Commission research on implementation pathways and models.

Build the business case

- Develop a strong business case for voluntary carbon credit project developers, project financiers, and other industry stakeholders to see the self-interest in contributing to a pooled fund that would create a more level playing field and thereby reduce investment risks.
- Design and pilot different approaches to providing independent legal and technical support to communities, ensuring a mix of designs, legal contexts, and local-level capacities.
- Leverage opportunities to embed pilots within Indigenous justice systems.
- Monitor and assess the pilots' results.

Assess feasibility

- Capture results and lessons learned.
- Present a business case to the [BSR](#) advisory committee of private equity investors that is focused on Human Rights and Environmental Due Diligence (HREDD) and the just transition.
- Engage the ICVCM Board and other decision-making fora.

Report on progress and next steps

- Leverage the UNFCCC COP30 taking place in Brazil in 2025 to share lessons learned and next steps to raise ambition and commitments.

As part of the closing priorities exercise, participants also identified which next steps they could support. The priority actions that received the highest level of expressed commitment included supporting the process to define the scope of the fund; identifying incentives for private sector contributions; and strengthening the alliance between communities on designing the fund.

The proposed path toward a pooled fund

In November 2025, at COP30, we hope to announce a specific pooled funding mechanism that would enable communities responding to carbon market initiatives to have access to the legal and technical support necessary for them to engage with project developers on more equal footing. The announcement will include detailed information about how the mechanism will be established, how the funds will be mobilized, and how communities will be able to access the fund.

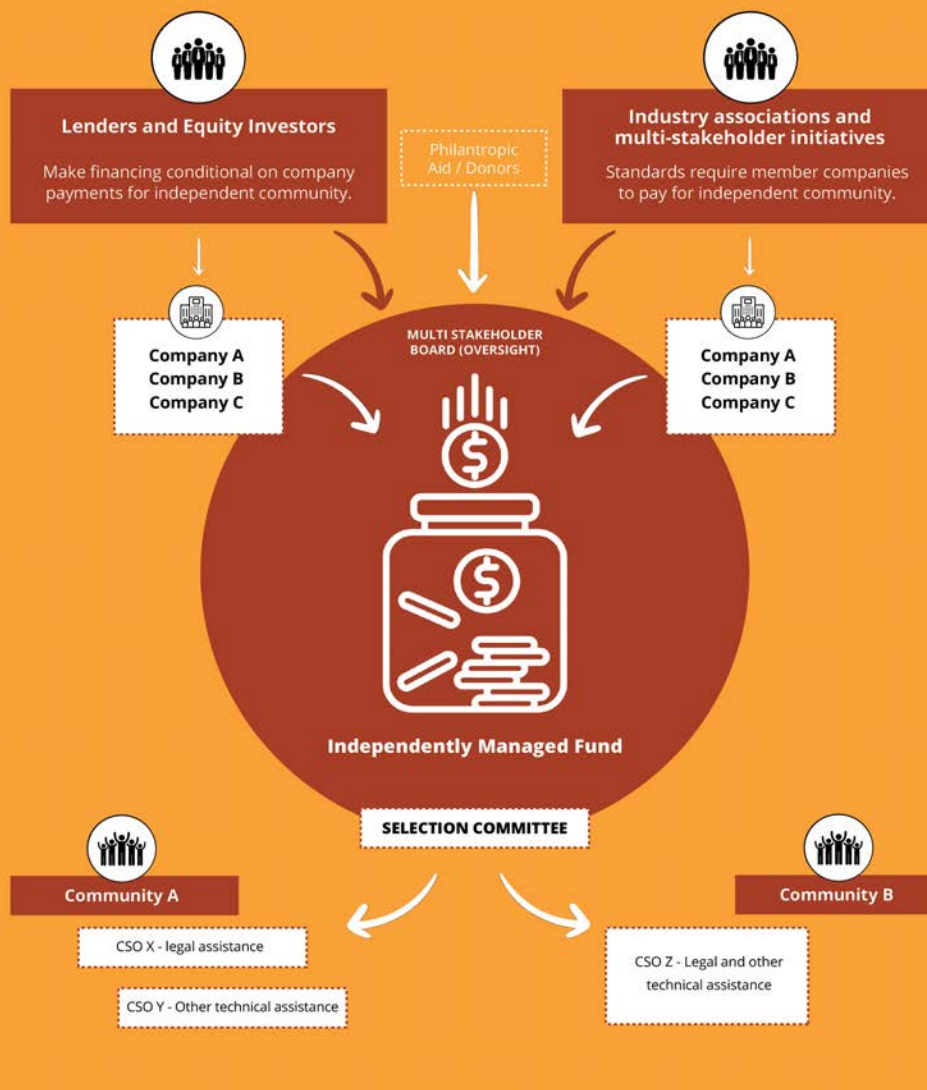
A Steering Committee of approximately 12 people will oversee the process of developing the proposal for a pooled fund. The Committee will be comprised of rightsholders (majority), rightsholder allies, donor representatives, project developers, industry influencers, and carbon credit project financiers and investors.

The Steering Committee will meet on a regular basis throughout 2025 to address a series of guiding questions and next steps around the establishment of a pooled fund. To facilitate these discussions, they will also convene two or three public consultation sessions to engage and solicit feedback. The sessions will focus on the following questions:

- What is the best way to incentivize private sector contributions to a pooled fund?
- What can we learn from other funds supporting community legal and technical expertise that should be applied to this fund?
- What are the key factors for a pilot location or parameters that are most pressing and important to address?

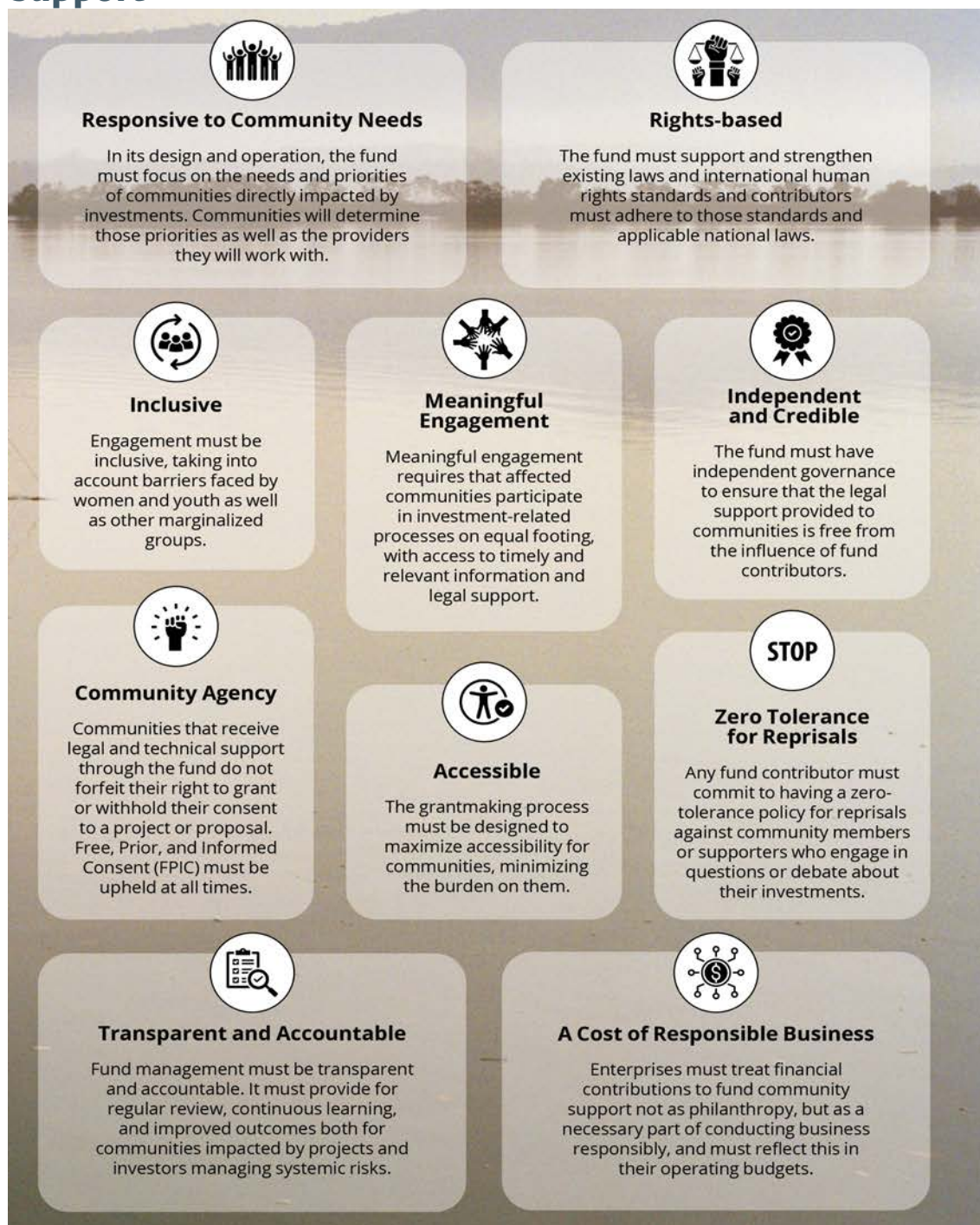
Annex I. Pooled Funding Mechanism Outline

Basket Fund for Community Legal and Technical Support



Source: Just Ground, Namati and Rights CoLab. 2024. How to Address the Corporate-Community Engagement Gap: The Case for a Pooled Fun for Legal and Technical Support.

Annex II. Core Principles for Funding Legal and Technical Support



Source: Just Ground, Namati and Rights CoLab. 2024. How to Address the Corporate-Community Engagement Gap: The Case for a Pooled Fund for Legal and Technical Support.



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