Strategy and Management

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The first step in the process of designing, implementing and managing a company's community engagement and investment should be developing appropriate strategies and policies. The development of a community-focused strategy is the time for the corporate responsibility committee of the company's board of directors, and the company as a whole, to focus on three fundamental questions. First, the company should decide on the group within their community that will be the primary target of the activities (e.g., young people by improving primary education and/or providing recreational spaces, older people or community members with disabilities). The next thing that needs to be done is to determine whether activities should be focused on specific parts of the community, such as a particular neighborhood, or can and should be scaled to have an impact throughout the entire geographic area. Finally, in order to have a strategy the company needs to decide on the sector and related issues on which the community-related activities will concentrate. Sector refers to the broader community development area (e.g., education, health, the environment and job creation) on which the company's community-related activities will concentrate, and issues are specific aspects of the selected sector (e.g., early childhood education in the education sector or entrepreneurship training in the job creation sector).

Community engagement and investment is a multi-faceted activity that requires formal management and planning. Working with and in the community is part of the broader corporate social responsibility ("CSR") activities of the company and this means that management should begin at the top of the hierarchy with the board of directors or, in most cases, the committee of the board that has been delegated responsibility for overseeing CSR activities on behalf of all of the directors. The CSR committee, working in collaboration with senior management of the company and specialists working specifically on community-related matters, should be tasked with developing strategies and policies relating to community engagement and investment; deciding on the optimal organizational structure for community-related activities, including perhaps the formation of an affiliated corporate foundation; ensure that procedures are in place for conducting due diligence on prospective recipients of grants and other resources from the company and potential partners in community development projects; development and approval of projects; overseeing implementation of projects, including preparation of definitive agreements with community partners, monitoring progress and measuring impact; and compiling and analyzing relevant information regarding community activities for presentation in the company's sustainability reporting.

Strategy Development

The first step in the process of designing, implementing and managing the company's community engagement and investment should be developing appropriate strategies and policies. If the company's activities are limited to occasional actions that fall into the realm of traditional philanthropy (i.e., small grants to local nonprofits and/or annual volunteering days) it may actually be that it has no specific strategy, which may be fine for a short period of time when the company is just launching and has scarce planning resources that need to be focused on other issues. However, as companies take on more ambitious plans with respect to involvement with communities and tackle issues that cannot be solved with one act, such as addressing poor education and poverty in the community, long-term strategies that go out three to five years are appropriate since the company's resources will need to be committed to the issue over an extended period of time. Strategies should describe what the company expects to achieve over the planning period in relation to its vision, mission and goals with respect to community development and how it plans to achieve those goals in terms of organizing and committing its available resources.

The development of a strategy is the time for the CSR committee, and the company as a whole, to focus on three fundamental questions. First, the company should decide on the group within their community that will be the primary target of the activities. For example, many companies prefer to be involved in programs for young people in their communities, such as improving primary education and/or providing recreational spaces. Other groups that might be targeted include older people, community members with disabilities and groups that have been marginalized and/or discriminated against due to gender or ethnicity. The next thing that needs to be done is to determine whether activities should be focused on specific parts of the community, such as a particular neighborhood, or can and should be scaled to have an impact throughout the entire geographic area. For most companies, the answer, at least initially, should be to concentrate on the areas surrounding the company's facilities. Finally, in order to have a strategy the company needs to decide on the sector and related issues on which the community-related activities will concentrate. Sector refers to the broader community development area, such as education, health, the environment, job creation and/or some of the other topics discussed below. Issues are specific aspects of the selected sector, such as early childhood education in the education sector, encouraging regular medical screenings and tests in the health sector and entrepreneurship training in the job creation sector. Decisions regarding sector and related issues should be made with an eye toward how the company, with its specific resources and competencies, can make the greatest impact in alignment with its overall vision and mission.

As is the case generally when the task is strategic planning for a business, the CSR committee and others involved in the planning process need to review the past and current community-related activities of the company to assess whether they are in alignment with the vision, mission and goals that the company wishes to incorporate into its new strategy. A study should be done of the practices and activities of comparable organizations and, most importantly, the plan should not be developed and implemented without extensive community engagement in order to understand the priorities and expectations among community members and anticipate how the community might react to a particular initiative or program. When selecting the target groups, sectors and issues, reference should be made to technical guidance and standards that have been developed for community engagement. Developing the strategic plan will initially be a time-consuming process; however, once the plan is in place it should be easier to review and modify to take into account changing circumstances. Companies should expect to assess and update their plans no less frequently than annually during the planning period and wholesale revision of plans will usually be required every four to five years.

Setting Objectives

In order for businesses to be able to develop and implement a strategic plan with respect to their community engagement and investment activities and design their organizational structures in a way that will align with that plan, they must develop a vision of the world they would like to see, identify their specific mission in achieving that vision and develop objectives and targets that can be used as guides for their decisions and actions in furtherance of their vision and mission.[1] In the context of contributing to community development, companies might begin with a *vision* of a world in the not so distant future in which community members can live without fear of contracting a particular disease or other debilitating health condition. To promote achievement of the vision the company will identify and commit to a specific *mission* that is aligned with its unique skills and resources. For example, a mission aligned with the above-described vision might be working to ensure that community members have access to the highest quality medical care and that supporting appropriate community-wide initiatives for activities that, done well, are likely to push the community toward the state described in the vision. The next step is setting *objectives* and the strategies required to achieve them. Objectives must be specific and measurable and are often constructed by reference to <u>how</u> <u>much</u> of <u>what</u> will be accomplished by <u>when</u>. Several objectives will be attached to a particular mission, such as working to provide a certain minimum percentage of the local population (how much) with easy and affordable access to screening and treatment (what) by a date that is five years down the road (when).[2]

Individuals intuitively understand the importance of objectives in their day-to-day lives. For example, a person may have a vision of a nice meal at a restaurant on the other side of town and commit to a mission of traveling from his or her current location to the restaurant to arrive at the appointed time for the meal. The objectives associated with this activity include planning for the various aspects of the journey to the restaurant which calls for taking into account other activities earlier in the day, availability of transport, traffic conditions and the like. Organizations have similar reasons for explicitly focusing

[1] Community Toolbox: Developing a Strategic Plan and Organizational Structure--Developing a Strategic Plan—Creating Objectives, https://ctb.ku.edu/en/table-of-contents/structure/strategic-planning/create-objectives/main
[2] Id.

on objectives for each of their organizational missions. One useful summary of good reasons for organizations to develop specific objectives included the following[3]:

- Developing objectives helps organizations create *specific* and *feasible* ways in which to carry out their mission
- Completed objectives can serve as milestones and indicators to demonstrate to stakeholders of the organization, including the community as a whole, the impact that the organization's actions have had on the community
- The process of creating objectives helps organizations set priorities for its goals and properly allocate scarce resources
- It helps individuals and work groups set guidelines and develop the task list of things that need to be done (and also allows for creation of scorecards that can be used to measure individual and group performance against the tasks that need to be completed in order to achieve the objectives)
- It reemphasizes the organization's mission throughout the process of change, which helps keep members of the organization working toward the same long-term goals
- Developing the list of objectives serves as a completeness check, to make sure the organization is attacking the issues associated with the mission on all appropriate fronts, and as an opportunity for internal and external engagement

In order to develop objectives it is useful to understand the various types of objectives and the characteristics of the best objectives. It has been suggested that objectives can be broken out into three basic types: behavioral, community-level outcome and process objectives. Each of these can be illustrated by reference to a neighborhood home improvement group. Behavioral objectives focus on changing behaviors of community members (i.e., what they are doing and saying) and the results of their behaviors. With respect to home improvements the changed behaviors might be an increase in home repair activity with the result that the quality of housing in the community improves. Community-level outcomes are the aggregate of individual behavior changes, in this case an increase in the percentage of people in the community who live in adequate housing. Finally, processes are the foundation for achieving the other objectives and an appropriate process objective for the neighborhood group might be adopting a comprehensive plan to improve housing in the neighborhood community.[4] Any type of objective should be checked to see how it conforms to the following characteristics:

- It should be *specific*, which means that it should identify *how much* (e.g., 20%) of *what* is to be achieved (e.g., what behavior of whom or what outcome) *by when* (e.g., by a specific date)
- It should be *measurable*, which means that it is reasonably feasible that information concerning the objective can be collected, detected, or obtained from records (and plans for measurement should be prepared in advance of starting the project)

[3] Community Toolbox: Developing a Strategic Plan and Organizational Structure--Developing a Strategic Plan—Creating Objectives, https://ctb.ku.edu/en/table-of-contents/structure/strategic-planning/create-objectives/main
[4] Id.

- It should be *achievable*, which means the objective not only reasonable and possible but that it is likely that the organization can, through its efforts, be successful
- It should be clear how pursuit and achievement of the objective is *relevant* to the organization's overall vision and mission
- It should be *timed*, which means there is a timeline developed by the organization by which the objective will be achieved
- It is *challenging*, which means that although the objective is achievable (as noted above) it will not be easy and can be expected to stretch the group in order to achieve significant improvements that are important to members of the community[5]

While thoughtful and well-done objectives make perfect sense when they are presented, the process of creating objectives is not easy and organizations should expect to invest a significant amount of time and effort on the process and proceed methodically through several important steps. The first thing to do is to re-consider the organization's vision and mission statements, which means stepping back and looking at the "big picture" about what the organization wants to achieve with regard to its programs of participation in and contributions to its community. The goal is to identify gaps between the situation in the community at the current moment and the organization's vision of how things should be in the community by an identifiable date in the future. Identification of gaps allows the organization to begin creating a list of the changes that will need to be made in the community in order for the organization's vision to be realized. Organizations should seek input from a number of sources when they begin inventorying potential changes including experts in the specific field or topic, specialists within the organization, change leaders in the community and, of course, the potential targets and beneficiaries of change. As ideas come in the organization needs to begin considering resource and logistical challenges associated with participating in a particular change effort (e.g., additional funding, new staff and/or training for existing staff members).

The goal of this whole process is to compile a list of the changes that would need to be made in order to move closer to the organization's vision for the community and which are reasonably within the scope of the organization's own mission (i.e., the specific contribution that the organization feels it can make to achievement of the vision). From that list the organization can develop a sensible set of objectives for its community development activities that are aligned with its current resources and feedback from the community as to what should be prioritized. One reference for organizations on developing their objectives posited an illustration based on the assumption that the organizational mission statement was "reduction of risk for cardiovascular diseases through a community-wide initiative" and that the organization had compiled a fairly lengthy list of general goals from which objectives could be crafted[6]:

- Begin smoking cessation programs
- Begin smoking prevention programs
- Bring about an increase in aerobic exercise

[5] Id.
[6] Id.

- Decrease the amount of obesity
- Encourage healthier diets
- Increase preventative medicine (e.g., more checkups for earlier detection of disease; better understanding of warning signs and symptoms)
- Increase the organization's scientific understanding regarding the causes and pathophysiology of cardiovascular disease
- Strengthen the organization's ties with national organizations committed to the same goals as the organization

Few would argue that all of the goals listed above are worthwhile; however, each goal brings its own set of issues, challenges and resource requirements and the next step is to set priorities and align progress on each of the goals in a systematic manner. All this begin with collecting baseline information on each of the goals, which means compiling and analyzing data that allows the organization to get an accurate picture of the scope of the issue or problem in the community. Organizations should collect data on the incidence of a problem in the community (i.e., new cases, such as how many community members reached a level of health that would be defined as obese in the last year), the prevalence of a problem in the community (i.e., existing cases, such as what percentage of the community would be classified as obese) and attitudes relating to a problem in the community (i.e., what percentage of the community thinks there is a problem and that it is important to address). Baseline data can be used to demonstrate create the case for taking action and as the foundation for measuring success if work on a particular goal is eventually incorporated into the organization's community development objectives. Baseline data can be collected from publicly available sources, such as government publications; other organizations that are involved in similar issues and which are willing to share their data; and from surveys, questionnaires and interviews within the community itself. Community-sourced data is extremely valuable and its availability will obviously depend on the organization's ability and willingness to engage effectively with community groups and individual community members.

The baseline data provides the organization with an idea of the scope of the problem or issue and a better idea of the specific elements that should be included in the objectives in the event that the organization decides to take the problem or issue on. At this point the organization needs to assess its resources and determine if they are sufficient to provide the organization with a reasonable opportunity to achieve its objectives. Decisions are difficult to make since it is impossible to predict the impact of the organization's efforts with certainty, particularly if substantial collaboration from other groups will be required on the community project or initiative. Given all this, this is the point in the process where the organization needs to prepare its initial list of objectives, which should address anticipated behavioral changes, community impacts and the planning process, include a timetable for attainment and fit each of the characteristics described above. Before the objectives are finally approved for implementation within the organization they should be reviewed one last time by the key internal and external stakeholders to ensure they address the expectations of everyone who will be involved in the project or initiative. This is also the time to check to be sure that the objectives are sufficiently complete to address the problem or issue and evaluate how the objective will be perceived by stakeholders (e.g., taking on a controversial health issue may alienate certain groups in the community at the same time it attracts the support of other groups). Another thing to consider is how progress on each of the objectives will eventually be reported to the organization's stakeholders. Once the objectives have been settled on the organization can turn to development of strategies for achieving each of them.

Obviously it is important to develop objectives before launching any community-related project or activity; however, setting, verifying and, if necessary, changing or abandoning objectives is a continuous process that is essential to the vitality and sustainability of any organization's community involvement and development efforts. Checking objectives should occur whenever the organization is involved in reviewing its overall vision and accompanying missing statements. Objectives should also be revisited in connection with any decision to change or expand the focus of the organization's community development efforts. For example, a change or expansion may become feasible if and when the organization gains access to additional financial resources or new technologies. Finally, objectives are necessary for projects that cannot be completed quickly (i.e., projects that will take several years to complete and measure, such as increasing the percentage of students in the community that finish high school, or projects intended to change behaviors in large numbers of community members, such as increasing the level of physical activity in the community) and/or which require a multi-faced approach (e.g., a project focused on reducing substance abuse—reducing the prevalence of drug use (how often or how much)--needs to address several issues simultaneously such as restricting access to drugs, making drug rehabilitation services readily available in the community and policymaking related to the legal consequences of drug use).[7]

Organizational Structure

Another part of the strategic planning process, generally addressed in most detail once decisions have been made regarding sector, issues and objectives, is deciding on the best organizational structure for implementing and managing the plan as well as the extent to which reliance will be placed on the resources and skills of outside parties. Companies generally have several options to choose from and may use more than one approach as part of a comprehensive community engagement and development program. In some cases a project or event may be executed through an internal group or department, such as sponsoring a community picnic. Companies often establish a separate legal entity, such as a corporate foundation, to manage community-related activities. Use of a separate nonprofit entity allows the company to leverage their own resources with funding from other sources (i.e., government programs and grants from other foundations) and to create a separate and distinct organizational structure for community activities with job titles and responsibilities that are aligned with the activities that need to be executed in the community area. Regardless of whether a company creates an internal group or a separate entity, job descriptions and roles and responsibilities need to be prepared and defined for all team members and appropriate connections need to be forged between the

[7] Id.

community engagement and development team and departments and groups within the company that can provide support such as budgeting, procurement, accounting, finance, administration and information technology.

Using an internal group or a controlled foundation are both examples of companies retaining substantial control over the implementation and management of a project; however, it is often necessary, and easier, for companies to make grants to an outside party better qualified to implement a particular project (or enter into a partnership or alliance with an outside party that provides for the outside party to take on a substantial amount of the work associated with the project). Several factors need to be considered when deciding between executing a project through an internal group and/or controlled foundation and outsourcing execution:

- Outsourcing may be easiest when the company can readily identify a competent and experienced local party that is already focused on the specific sector and issue and has projects in place that are aligned with the company's vision and goals
- Retaining control is preferred when the company needs to have the flexibility to customize the program to fit its specific vision and goals
- When cost is a significant factor, use of an outside party often makes the most sense since they already have invested in the resources and skills necessary for effective implementation—if the company takes the project on it will generally not be able to achieve and enjoy the advantages of "economies of scale" since it will need to purchase/lease the necessary tangible and intangible assets and hire and train additional human resources
- Control is obviously a key distinction between the two approaches, with companies seeking high levels of control over the project opting to execute on its own (in some cases it is possible to negotiate control over an outsourced project through governance provisions in the agreements with the outside party; however, those may be of limited value unless the company actually places its own personnel into the project)
- The type of project and long-term goals and projected activities of the company with respect to the sector and issue are relevant and outsourcing may be preferred for relatively straightforward projects where the outside party can provide effective project management while executing a project internally is the best course of action when the company's specific project management know how is needed and the project is part of the company's efforts to gain deeper knowledge of the sector and issue that can be used in subsequent projects

Decisions regarding the optimal organizational structure depend on the portfolio of community engagement and investment activities that the company has selected in the process of developing its strategies for that area. At any given point in time a company may be engaged in a wide array of programs and initiatives including employee volunteering, direct corporate contributions (i.e., non-foundation), foundation giving, matching gifts, federated campaigns, cause marketing, social innovation, workplace giving, social enterprise, partnerships etc.[8] The issue, as discussed elsewhere in this

[8] S. Rochlin, The Business ROI of Social Investments (IO Sustainability, 2017), 24.

chapter, is ensuring that the portfolio is optimally designed to achieve the greatest business and community impact and decisions regarding portfolio design will lead to changes in organizational structure.

Evaluating Outside Partners

When it appears that the best path of action for the company is to rely on an outside party to perform a significant amount of work associated with a prospective project, the company (either the internal group or the controlled foundation) must follow an orderly process, referred to as "due diligence", to determine the risks and benefits of working with a particular outside party. For that matter, due diligence of the type described below should be performed whenever a company makes a direct grant and/or contribution of other resources to a local nonprofit organization. Due diligence should be undertaken after the parties have had preliminary discussions to confirm a mutual interest in some sort of collaboration, the terms of which will eventually be laid out in formal documents.

A good deal has been written about due diligence process, which typically includes review of publicly available documents and reports and documents provided on a confidential basis by the outside party, site visits and interviews with representatives of the outside party and their clients from previous projects. While information will come from various sources, the idea is to get answers with respect to several key issues and questions relating to the outside party:

- The identity and history of the outside party: The legal identity and status of the outside party; the period of time that it had been in existence and providing the services that it currently performs; affiliations of the party with organizations and governmental bodies relevant to the proposed project; permits and licenses; public image; and any ongoing litigation or regulatory disputes
- The skills and resources of the outside party: Measures of the competence of the outside party (e.g., capacity, expertise and years of experience) with the geographic areas, sectors and issues to be covered by the proposed project
- The governance and management of the outside party: Information regarding the composition of the board of directors of the outside party including profiles of board members and advisors; diversity in expertise; frequency and scope of board meetings; overall vision, mission and strategy of the outside party; relevant experience of the management team and specialists that would be involved in the particular project; and actual and potential conflicts of interest
- The operational processes of the outside party: Organizational structure and deployment of human and physical resources; operations, systems and processes; human resources and risk management
- The financial capability of the outside party: Availability and review of financial statements and reports of financial condition required to be made with regulatory bodies with oversight responsibility in order to determine adequacy of reserves and efficiency of prior management of capital and additional audit of internal controls

- The level of transparency regarding operations practiced by the outside party: Compliance with legal disclosure requirements and additional requirements imposed due to expectations of stakeholders of the outside party (e.g., funders and members of community served by the outside party)

The end product of the due diligence process should be a due diligence report that meets the criteria established in advance for evaluating the outside party for the specific project. The report should cover all of the issues and questions listed above as well as the compatibility of the outside party with the company's own vision, mission and goals with respect to community engagement and development. As the company gains experience in the due diligence process, more formal procedures can be established and the company will have more experience and context that can be used to assess the results of the due diligence process on any one outside party. If the outside party is selected, provision should be made in the formal agreements with the outside party for continuous updates of information with respect to the outside party in many of the areas described above including financial statements, reports and material changes in activities.

Once the due diligence investigation of the outside party has been completed (or the due diligence investigation of a potential grantee has been completed when the company is making a grant on its own, either directly or through its corporate foundation), attention turns to completing and approving a project proposal. Responsibility for developing the project proposal lies with the party that will be actually implementing the project on behalf of the company (i.e., the internal group, the corporate foundation or the outside party) and should be based on information regarding the geographic, sectorial and issue-based targets for the project collected from governmental and other sources and, most importantly, stakeholders in the community that will be impacted by the project. A good project proposal should cover the overall context for the project in the community including the current and projected roles of other stakeholder engaged with community development; the key needs of and issues confronting the target beneficiaries of the project; project goals, key performance indicators, baselines and expected end results; milestones to be used for purposes monitoring the progress and performance of the project; budgets; risk management and mitigation strategies; and details regarding reporting of progress and impact of the project.

Project Development

Project development is crucial to the success of the project and calls for attention to a range of different, albeit related, activities:

- Developing a framework to identify and engage with key stakeholder groups in the local community including local governmental bodies, research institutions and universities, prospective funders for the project and the intended beneficiaries of the project
- Conducting an assessment, if required, to identify and evaluate developmental needs and priorities in the community, a process that requires a number of different tools at various levels of participation (e.g., interviews, community meetings, surveys etc.)

- Studying and adopting best practices to address similar challenges based on prior experiences or lessons available from other organizations and communities
- Clearly describing the proposed project including the objectives of the project; the intended beneficiaries and the anticipated impact on those beneficiaries; key assumptions; the expected outputs and outcomes; and a detailed list and description of activities
- Identifying the key performance and success indicators for the project and the means for measurement and verification (including measurement and verification of baselines against which the project performance can be compared)
- Creating a reasonable budget for the project that includes all feasible funding sources such as governmental sources, other corporate donors and/or contributions from community members (including community-based nonprofit organizations)
- Selecting and implementing the methods that will provide a clear measure of the impact of the project on the company, the community and other involved parties

One of the objectives of the developing the project proposal is to provide decision makers with sufficient information to review and approve the project. Approval should be based on finding that the proposed project aligns with the goals and objectives that have been established for community engagement and development, the proposal incorporates indicators for monitoring project progress and measuring impact and that sufficient resources have been allocated to the project. The amount of time required for the review and approval of a proposal will depend on various factors including the size and scope of the project and the company's prior experience with similar projects and/or the outside party selected to assist with implementing the project. The project proposal should be accompanied by a due diligence report. The decision makers, which may be the members of the CSR committee of the board of directors or the board of directors of the corporate foundation that the company has set up to manage community development activities, may suggest or require changes to the proposal as a condition for approval and any such changes should be incorporated into the final version of the proposal.

In some cases the final approval of a project to be implementing with an outside party will not occur unless and until a memorandum of understanding or other form of definitive agreement has been agreed upon with the outside party, which agreement would be part of the proposal package submitted to the decision makers. Such an agreement should define the roles, responsibilities, deliverables and commitments for each of the parties and the consequences in the event either of the parties breaches their obligations under the agreement. Each agreement should describe the expected outputs and impacts based on objective measurement criteria established at the beginning of the project and the outside party should commit to collecting the data necessary for proper measurement. Agreements should also cover the processes for communication between the parties, dispute or conflict resolution mechanisms, inspection and audit requirements, timelines and milestones and, of course, the procedures for disbursing funding to the outside party based on a budget agreed upon in advance that includes reasonable conditions regarding continued progress of the project. In situations where the amount of resources being committed to a project is not large and/or the company has prior experience with the outside party, approval of a project may be given without a final form of definitive agreement and authorized representatives of the company will be delegated the authority to negotiate and execute an agreement on their own provided that it conforms to the company's standard practices.

Monitoring and Reporting

Once the project has been approved and the definitive agreement has been completed it is time to focus on monitoring the progress of the project to ensure that everything is on track and to collect information about the process, the sector and the issues that can immediately be incorporated into the development of new projects. Proper monitoring requires timely information and may also be facilitated by the use of independent auditors. Interactions with the intended beneficiaries of the project are important at this phase as they obviously can provide essential input as to whether or not the project as then designed is meeting their needs and expectations with regard to the target issue. A number of tools and methodologies have been developed for measuring impact and companies need to understand how they will be deployed with respect to a particular project and set aside the resources to create meaningful impact reports. Impact measurement often requires a dedicated team that can visit the site where the project is being conducted and conduct interviews and distribute surveys among the target group. If the intended impact is not being achieved changes can be made to the manner in which the project is being implemented.

Once the project is completed (or at least annually in the case of projects that are expected to run over multiple years) a project report should be completed for presentation to the decision makers and, in many cases, for publication to the stakeholders of the company impacted by the project and the company's overall community engagement and development activities. As mentioned above, the project proposal and definitive agreement should include procedures for collecting the information necessary for preparation of reports and the company should decide in advance on the reporting framework it will follow in order to ensure that the information necessary to comply with the framework is available. When preparing the report due regarding should be given to the expectation of the intended recipients including the members of the CSR committee, investors and other parties providing funding for the specific project, government agencies and members of the community. As the company's community-related projects scale up a reporting specialist will generally be recruited to ensure that reporting practices are consistently applied.

Selecting the Sector and Related Issues

As noted above, one of the fundamental questions that must be addressed at the very beginning of the development of a strategy for community engagement and investment is the selection of the sector(s) and related issues on which the company's community-related activities will concentrate. A sector is a broader community development area, such as those described below, and issues are specific problems or challenges within a sector upon which a company's strategy, resources and competencies can be properly and effectively focused. In many cases sectors will be selected on the basis of the personal priorities of the founders and other organizational leaders of the company and/or the core business activities of the company. While relying on these inputs is helpful, companies should be careful not to settle upon sectors and issues without first conducting an assessment of the needs within the community and the expectations of community members regarding the company's involvement and investment. For example, the activities and geographic location of a company may dictate that prioritization be given to a specific sector, such as engagement with and support for indigenous peoples.

Companies can look to a variety of sources to assist them in compiling a list of sectors and related issues from which choices can be made including the ISO 26000 Guidance on Social Responsibility developed by the International Organization for Standardization[9], the Future-Fit Business Framework, the OECD Guidelines for Multinational Enterprises (http://mneguidelines.oecd.org/), the STAR Community Rating System framework ("STAR")[10] and the United Nations Sustainable Development Goals ("SDGs") of the 2030 Agenda for Sustainable Development[11]. For those companies interested in participating in addressing one or more of the SDGs at the community level, reference can be made to the resources available through SDG Funders (www.sdgfunders.org) in order to gain a better understanding of how businesses, non-profits and other types of organizations have been supporting initiatives focused on one or more of the SDGs. Among other things, the SDG Indicator Wizard is a simple and innovative tool that organizations to identify which of the SDGs are most closely aligned with its existing strategic priorities as declared in organizational mission statements and then use that information to create an SDG-compatible framework that includes relevant goals, targets and indicators. Additional guidance for businesses on creating strategies that will allow them to contribute to progress on the SDGs is provided by the SDG Compass (www.sdgcompass.org) and addresses defining priorities, setting goals, integration and reporting and communications.

Another resource for gathering ideas is the sustainability reports of comparable businesses, particularly the sectors highlighted in those reports and any related case studies that provide insights on specific issues and the programs and initiatives developed to address those issues. A research report on reporting practices relating to community impacts prepared in 2008 by the Global Reporting Initiative, working in collaboration with the University of Hong Kong and CSR Asia, is mentioned in the following

[9] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010).
[10] The STAR Community Rating System ("STAR") (www.starcommunities.org), which was launched in 2008, is one of the emerging frameworks and certification programs created for local governmental and community leaders to assist them in assessing the level of sustainability in their communities. The STAR framework that is based on a holistic set of Guiding Principles with respect to local sustainability that include thinking—and acting—systematically; instilling resiliency; fostering innovation; redefining progress to include not just GDP but also improvements in the health and wellbeing of the community's people, environment and economy; living within means; cultivating collaboration; ensuring equity; embracing diversity; inspiring leadership and continuously improving.
[11] http://www.un.org/sustainabledevelopment/sustainable-development-goals/

sections.[12] The conclusions in the report, referred to herein as the "GRI Community Impact Reporting Survey", were based on a review and analysis of 72 sustainability reports, and the report identified 17 categories of topics that were covered in reports, although acknowledging some overlap. Some of the topics were process-oriented, such as philanthropy and charitable giving, community dialogue and engagement, partnering with non-governmental and local organizations and public policy; however, most of the topics could be appropriate characterized as "sectors" and provides much of the basis for the sections that follow (which also include ideas regarding specific issues and programs that businesses have developed for each of them).

Education and Culture

Education and culture are foundations for social and economic development of communities and part of every community's identity. Efforts by organizations to preserve and promote education and culture in the communities in which they operate are compatible with respect for human rights and important positive contributors to social cohesion and development. It is not surprising that education and culture are two of the most common areas of interest for local community engagement and investment activities. Businesses have acted in a number of different ways to support local schools and cultural programs and it is common for them to set and pursue sustainability goals relating to educational opportunities, educational environments, school-community engagement, ecological literacy, arts and culture, social and cultural diversity, neighborhood vitality and civil literacy and engagement. The results can be impressive including improvement of mathematics performance of learners, decrease in the number of accidents and expanded scope of availability of culture and leisure activities, and activities relating to community education and culture should be covered in sustainability report along with an assessment of the impact of those activities.

According to ISO 26000 education and culture are foundations for social and economic development and part of community identity and efforts by organizations to preserve and promote culture and promote education are compatible with respect for human rights and important positive contributors to social cohesion and development.[13] Among the sustainable development goals of the 2030 Agenda for Sustainable Development are the aspirations to ensure inclusive and equitable quality education, promote lifelong learning opportunities for all and empower all women and girls.[14] The Future-Fit Business Framework identified inadequate access for a large proportion of the global population to basic education as being among the critical environmental and social issues

[12] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008).
[13] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 64.
[14] http://www.un.org/sustainabledevelopment/sustainable-development-goals/

for businesses and society as a whole, arguing that the problem has led to a skills gap, poor nutrition and health, and less chance for families to escape from poverty and lead fulfilling lives.

Education and culture are two of the most common areas of interest for local community engagement and investment activities and businesses have acted in a number of different ways to support local schools and cultural programs. In fact, one of the two most frequently covered topics in the reports analyzed for the GRI Community Impact Reporting Survey (along with philanthropy and charitable giving) was education and training, which appeared in 63% of the reports. The topic was described as including initiatives aiming at providing support (in kind, cash, human resources) to education systems and/or transferring knowledge to the community.[15] ISO 26000 recommends that organizations should[16]:

- Promote and support education at all levels, and engage in actions to improve the quality of and access to education, promote local knowledge and help eradicate illiteracy
- In particular, promote learning opportunities for vulnerable or discriminated groups
- Encourage the enrollment of children in formal education and contribute to the elimination of barriers to children obtaining an education (e.g., child labor)
- Promote cultural activities where appropriate, recognize and value the local cultures and cultural traditions, consistent with the principle of respect for human rights
- Place special emphasis on actions to support cultural activities that empower historically disadvantaged groups as a means of combating discrimination
- Consider facilitating human rights education and awareness raising
- Help conserve and protect cultural heritage, especially where the organization's activities have an impact on it
- Where appropriate, promote the use of traditional knowledge and technologies of indigenous communities

As noted above, the STAR Community Rating System framework, while not specifically directed at private sector organizations, can be used by such organizations to plan their community involvement and development strategies and measure the impact of their actions. While preempted by the current version of the framework, the original sustainability goals and guiding principles released by STAR in October 2010 also provide a reference point for businesses looking to identify community-related goals over a variety of sectors. For example, sustainability goals falling under education, arts and the community in the original version of the STAR framework included the following[17]:

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[15] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.
[16] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 64-65.
[17] STAR Community Index: Sustainability Goals and Guiding Principles (ICLEI and Local Governments for Sustainability, October 2010), 18.

- Educational Opportunities: Engage all people, from birth through adulthood, with access to high quality public education
- Educational Environments: Design, manage and operate high-quality facilities and learning settings, accessible to all students and community members that appropriately serve their target community, create safe and lasting connections to the community at large, and expand assets for historically underserved communities
- School-Community Engagement: Drive successful education inside and outside the classroom by building a strong school-community learning partnership and mutual ownership of educational success
- Ecological Literacy: Provide residents with the informational and material resources they need to think critically about and address environmental problems and solutions, and include the environment as an important consideration in their work and daily living
- Arts and Culture: Engage all audiences with a diverse offering of arts and cultural opportunities and allow for regular participation and creative self-expression; use these resources as platforms to address social, environmental, educational and economic development issues in the community
- Arts and Cultural Civic Support: Establish civic leadership and support in cultivating a broad range of arts, cultural and heritage resources and activities
- Social and Cultural Diversity: Celebrate and respect diversity and sensitively utilize the diverse perspectives and traditions embodied in the social, cultural and economic diversity of a community's residents
- Neighborhood Vitality: Support the function and identity of neighborhoods by encouraging communication, strengthening community bonds, local participation and interaction, and enhancing sense of place
- Civic Literacy and Engagement: Encourage communication and promote meaningful participation in civic life within and among neighborhoods and the larger community; create civic participation that is accessible to all, with barriers to full participation eliminated
- Financial Literacy: Empower citizens to make informed choices about the risks and benefits of financial decisions by enhancing understanding of financial concepts and products

In some cases businesses get involved in local programs to ensure that more children have access to education and/or reduce the number of school days lost due to the inability of children to get to the schools. Another dimension of education in local communities is improving the quality of the curriculum and the way in which is delivered and organizations may decide to funnel their resources toward professional development for teachers to provide them with the support to learn and implement innovative teaching methods that will improve their job satisfaction and outcomes in the classroom. Teacher development is particularly important for teachers involved in educating children in the earliest years as they are working on the basic literacy skills that will serve as the foundation for lifelong learning. Objective measures of performance and impact in this area include the number of teachers placed in development programs and the number of students those teachers worked with at their schools. The value of the teacher development programs can be enhanced by supporting outreach initiatives in the community to inform parents and other family members about the classroom activities and elicit their participation in encouraging the children.

The reports analyzed for the GRI Community Impact Reporting Survey indicated that companies reported on a fairly robust set of performance indicators with respect to education and training including the following (the top three being the indicators most commonly found):

- Number of people benefited or reached by the educational activities
- Sum of money invested or raised for the education initiative
- Number of educational activities (e.g. seminars, classes, conferences, etc.) held
- Number of scholarships granted
- Number of items (e.g. backpacks, computers, books etc.) donated
- Number of educational facilities (e.g. schools) built
- Number of branches or employees who participated in educational activities
- Percentage of the population (e.g. students, teachers) benefited
- Number of jobs provided for students

Reporting on education and training also included several impact indicators such as improvement of mathematics performance of learners, percentage rise of general school graduates get apprenticeship, percentage decrease of number of accidents and percentage of youth members continue to involve in volunteer projects. It should be noted that several of the performance indicators listed above, such as number of people benefited or reached by educational activities, are arguably focused on impact; however, companies generally did not attempt to measure and describe intensity of benefits from programs.

Culture was separated out as a reporting topic for purposes of the GRI Community Impact Reporting Survey and was covered in 36% of the reports, making it the seventh most popular of the 17 topics. The topic, actually named "culture and leisure", was described as including reporting on initiatives aiming at promoting culture (such as music, opera), sports and other leisure activities in the community.[18] The performance indicators that companies reported on with respect to culture and leisure included the number of people/groups benefited or participated in activities; the sum of money spent on culture and leisure initiatives; and the number of exhibitions/performances/activities staged. Notably, however, the reporting companies generally failed to identify and report on any impacts from their culture and leisure initiatives.

Environmental Campaign/Problem Solving

The OECD Guidelines for Multinational Enterprises (http://mneguidelines.oecd.org/) ("OECD Guidelines"), the most comprehensive set of government-backed recommendations on responsible business conduct in existence today, call on businesses

[18] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.

to conduct operations in their communities in a manner contributing to the wider goal of sustainable development including taking due account of the need to protect the environment and public health and safety; engage and communicate with community members regarding the potential environment, health and safety ("EH&S") impacts of the activities of the company and the EH&S policies adopted and implemented by the company; maintain contingency plans for preventing, mitigating and controlling serious environmental and health damage from their operations including accidents and other types of emergencies; and contribute to the development of environmentally meaningful and economically efficient local public policies including support of local partnerships and initiatives that will enhance environmental awareness and protection.

A number of the sustainable development goals of the 2030 Agenda for Sustainable Development touch on various environmental issues including ensuring the availability and sustainable management of water and sanitation for all; ensuring access to affordable, reliable, sustainable and modern energy for all; making cities and human settlements inclusive, safe, resilient and sustainable; climate action; and conservation and protection of life and natural resources below water and on land.[19] While meaningful progress on these environmental-related goals will require collective action to achieve effectiveness and positive impact, businesses can make their own contributions to foster environmental wellness in their communities. For example, companies can implement programs to mitigate the adverse environmental footprint of their operations in the community and can also provide support for the development and maintenance of green and sustainable economic solutions throughout the community.[20] In addition, companies from a variety of industries integrate recycled materials into their products, provide training and education to employees, customers and community members regarding climate change, support clean oceans and rivers in their communities and invest in measures to protect outdoor areas in their communities.[21]

Community environmental campaign/problem solving came in eighth in coverage out of the 17 categories of topics in the reports analyzed for the GRI Community Impact Reporting Survey, appearing in 35% of the reports. The topic was described as including reporting on voluntary environmental initiatives by the company for the benefit of the community and which were not related to the company's operations.[22] Companies reported on a fairly robust set of performance indicators with respect to community environmental campaign/problem solving including the following:

- Size of habitats protected/maintained
- Number of students who participated in seminars
- Number of sales outlets and maintenance centers participated in recycling campaign

[19] http://www.un.org/sustainabledevelopment/sustainable-development-goals/
[20] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/
[21] Id.
[22] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.

- Number of handsets and components recycled
- Number of environmental centers operated
- Sum of money invested in environmental initiative
- Number of trees planted

Reporting also included the size of land under cultivation as the sole impact indicator.

32% of the reports analyzed for the GRI Community Impact Reporting Survey also included information on the environmental impacts arising from the company's operations on a specific community based on performance indicators such as the amount/percentage of consumed energy, consumed resources, vehicle trips reduced or saved; the number/area/percentage of work sites restored; the sum of money spent on environmental protection; the percentage of resources/waste recycled; resources utilization efficiency; the amount of emissions reduced; the number of trees planted; the number of families/people benefited; the number of jobs created; and the amount of revenue for municipality generated. Impact indicators for community environmental impact due to operations included the volume of spilt oil and the number of species and visitors attracted.[23]

Employment Creation and Skills

Employment is a universally recognized objective related to economic and social development and is one area where all organizations, regardless of their size and focus of activities, can make a direct and positive contribution to reducing poverty and promoting economic and social development provided, of course, that they adhere to standards for human rights and fair labor practices and working conditions.[24] Among the "global challenges" identified by the Future-Fit Business Framework as being the critical environmental and social issues for businesses and society as a whole was a severe income disparity between the world's richest and poorest citizens which both contributes to and is exacerbated by underemployment, a growing skills gap and depressed economies.[25] The World Economic Form called out a sustained high level of unemployment or underutilization of the productive capacity of the employed population as being among the major economic, geopolitical and technological challenges and risks for businesses and society in general.[26]

The sustainable development goals of the 2030 Agenda for Sustainable Development include the aspirations to promote employment, decent work and lifelong learning opportunities for all.[27] In addition to providing jobs for community members, businesses

[23] Id.
[24] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 65.
[25] Future-Fit Business Framework, Part 1: Concepts, Principals and Goals (Future-Fit Foundation, Release 1, May 2016), 11, FutureFitBusiness.org.
[26] The Global Risks Report 2017 (12th Edition) (Geneva: World Economic Forum, 2017), 63. The Report and an interactive data platform are available at http://wef.ch/risks2017.
[27] http://www.un.org/sustainabledevelopment/sustainable-development-goals/

can also participate in efforts relating to skills development so that people in the community are able to secure decent and productive jobs over the course of their working lives, thus enhancing overall economic and social development. The OECD Guidelines require that businesses encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for local community members; observe standards of employment and industrial relations not less favorable than those observed by comparable employers in the community and take adequate steps to ensure health and safety in their operations; and, to the greatest extent practical, employ local personnel and provide training with a view to improving skill levels in cooperation with relevant governmental authorities.

ISO 26000 recommends that organizations should, with respect to employment creation and skills[28]:

- Analyze the impact of its investment decisions on employment creation and, where economically viable, make direct investments that alleviate poverty through employment creation
- Consider the impact of technology choice on employment and, where economically viable in the longer term, select technologies that maximize employment opportunities
- Consider the impact of outsourcing decisions on employment creation, both within the organization making the decision and within external organizations affected by such decisions
- Consider the benefit of creating direct employment rather than using temporary work arrangements
- Consider participating in local and national skills development programs, including apprenticeship programs, programs focused on particular disadvantaged groups, lifelong learning programs and skills recognition and certification schemes
- Consider helping to develop or improve skills development programs in the community where these are inadequate, possibly in partnership with other public and private entities and organizations in the community
- Give special attention to vulnerable groups within the community with regard to employment and capacity building
- Consider helping to promote the framework conditions necessary to create employment opportunities in the community

In rural areas companies can provide assistance with vocational training and opportunities for community members to earn while they are learning how to run their own businesses in areas such as pottery, carpentry and farming. In order to provide the most effective assistance in those areas companies need to engage experts to determine specific skills and training requirements and create programs to provide community members with access to financial assistance. In urban areas companies typically focus on supporting training and educational programs to build the technical and professional skill

[28] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 65.

sets and competencies of local community members in order to expand the potential labor pool for the company and qualify those community members to seek and obtain well-paying jobs with other businesses that will ultimately improve the overall economic development of the area. Companies may provide financial support, and make in-house experts available as faculty members, to local schools, colleges and technical/professional educational institutions, and may even set up their own programs that include opportunities for local participants to participate in on-the-job training.[29] Examples include a software company sponsors and operates programs to assist young people in the local community in developing their computer skills including in-kind donations to schools and mentoring from employee volunteers, and a bank that launches hiring and training programs aimed at local residents with low-income backgrounds to achieve significant improvements in workforce diversity at all levels of the organization.[30]

Businesses can look to EJ-4 (Quality Jobs & Living Wages) in the STAR framework for ideas regarding actions they can take with respect to community job creation. The stated purpose of EJ-4 is to "expand job opportunities that support upward economic mobility, offer supportive workplace policies, and pay living wages so that all working people and their families can afford basic necessities without governmental assistance".[31] Community-level outcomes for EJ-4, which few if any private organizations can significantly impact on their own, include increasing real median household income over time, increasing the percentage of household incomes in the community that meet or exceed the living wage standard and demonstrating reduction of income inequality in the community over time. However, businesses can take actions that support broader efforts in the community to achieve those community-level outcomes including their own variations of actions recommended and measured in the STAR framework for EJ-4[32]:

- Enact family-friendly workplace policies for all local employees that include at least three of the following benefits: paid sick days, paid family leave, flexible scheduling, teleworking, job sharing, and easily available childcare
- Require that local suppliers and contractors provide at least two of the following benefits to their employees: paid sick days, paid family leave, flexible scheduling, job sharing, and easily accessible childcare
- Support living wage campaigns in the community
- Support a "Best Places to Work" campaign to recognize local businesses that support employees and their families
- Maintain collective bargaining relationships with public employee labor organizations that represent local workers
- Participate in and promote local hiring programs

[29] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/
[30] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/
[31] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 61.
[32] Id. at 61-63.

- Provide training programs and assistance to local businesses to encourage them to provide family-friendly workplace policies and extended benefits
- Provide job training and assistance programs for employees and local community members particularly those who are working in job areas where wages are below the living wage
- Establish and maintain living wage policies in their own organizations with a living wage officer or equivalent function

43% of the reports analyzed for the GRI Community Impact Reporting Survey included coverage of direct economic impact, making that topic the sixth most popular out of 17 topics. The topic was described as including reporting on the direct economic benefits brought to the community due to the company's operation, such as the number of jobs created, payroll to employee, taxes to government, etc.[33] Companies reported on a fairly robust set of performance indicators for this topic including the following:

- Amount of money invested/distributed to local communities or suppliers
- Number of jobs created/offered to affected employees
- Amount of tax paid to government/percentage of tax received by the government which is paid by the company
- Payroll to employees
- Capital cost spent, revenue generated, retained earnings
- Percentage of purchases from local suppliers/percentage of workforce from local people
- Contributions (sum of money) collected from visitors
- Number of local businesses supported

Reporting on direct economic impact also included several impact indicators such as the number of employees affected by the company re-structuring; GDP growth in the operation area; and the number of local villagers enrolled to school.

It should be noted that a relatively small group of companies, just 7%, reported on the process of resettlement of the community due to the company's operations, such as mining activities, an event that almost certainly has a significant direct economic impact on the community. Performance indicators included the sum of money spent on the initiative and the percentage of resettled residents helped. No impact indicators were identified and reported on for resettlements.[34]

31% of the companies also reported on assistance provided to local businesses and producers, which included reporting on initiatives to enhance the competitiveness and/or give preferences to local business/producers. Performance indicators for assistance to local businesses/producers included the value or percentage of expenditure/purchases

[33] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.
[34] Id.

offered for trading with local business/producers; the number of people/families/enterprises benefited; the sum of money spent to help local business/producers; the percentage of contracts granted to local businesses; and the size of land sold/allocated to help local business. Impact indicators for these initiatives included the number of local small and medium-sized enterprises established and the number of productive units built and the percentage of productivity increase.[35]

Wealth and Income Creation

One of the most striking features of emerging thought regarding corporate social responsibility is the expectations imposed on businesses to support wealth and income creation among the members of their communities. The Future-Fit Business Framework argues that one of the critical environmental and social issues for businesses and society as a whole is the failure to adequately invest in, upgrade, and secure critical infrastructure, coupled with rapid and poorly-planned urbanization, which has undermined the long-term health and resilience of communities; and a severe income disparity between the world's richest and poorest citizens which both contributes to and is exacerbated by underemployment, a growing skills gap and depressed economies.[36] Among the economic, geopolitical and technological challenges and risks for businesses and society in general identified by the World Economic Forum is the increasing socioeconomic gap between rich and poor in major countries or regions.[37] The sustainable development goals of the 2030 Agenda for Sustainable Development include aspirations to end poverty in all its forms, everywhere; promote sustained, inclusive and sustainable economic growth; reduce income inequality within and among countries and empower and promote the social, economic and political inclusion of all.[38]

Larger organizations have the ability to contribute to their communities through support of programs that will encourage entrepreneurship and innovation and ultimately create competitive and diverse enterprises in the community that can play a crucial role in creating wealth in the community. ISO 26000 notes that organizations can contribute positively to wealth and income creation, and the reduction of poverty and empowerment of women and other disadvantaged groups within the community, through entrepreneurship programs, selection and development of local suppliers, and employment of community members, as well as through wider efforts to strengthen economic resources and social relations that facilitate economic and social welfare or generate community benefits.[39] With respect to wealth and income creation, ISO 26000 recommended that organizations should[40]:

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[35] Id.
[36] Future-Fit Business Framework, Part 1: Concepts, Principals and Goals (Future-Fit Foundation, Release 1, May 2016), 11, FutureFitBusiness.org.
[37] The Global Risks Report 2017 (12th Edition) (Geneva: World Economic Forum, 2017), 63. The Report and an interactive data platform are available at http://wef.ch/risks2017.
[38] http://www.un.org/sustainabledevelopment/sustainable-development-goals/
[39] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 66.
[40] Id. at 66-67.

- Consider the economic and social impact of entering or leaving a community, including impacts on basic resources needed for the sustainable development of the community
- Consider supporting appropriate initiatives to stimulate diversification of existing economic activity in the community
- Consider giving preference to local suppliers of products and services and contributing to local supplier development where possible, an initiative that is particularly important when such suppliers are operating in relatively isolated areas and thus cannot easily access economic opportunities with parties outside of the community
- Consider undertaking initiatives to strengthen the ability of and opportunities for locally based suppliers to contribute to value chains, giving special attention to disadvantaged groups within the community
- Consider assisting organizations to operate within the appropriate legal framework
- Engage in economic activities with organizations that, owing to low levels of development, have difficulty meeting the legal requirements only where the purpose is to address poverty, the activities of these organizations respect human rights, and there is a reasonable expectation that these organizations will consistently move towards conducting their activities within the appropriate legal framework
- Consider contributing to durable programs and partnerships that assist community members, especially women and other socially disadvantaged and vulnerable groups to establish businesses and co-operatives, in improving productivity and promoting entrepreneurship (e.g., programs that provide training in business planning, marketing, quality standards required to become suppliers, management and technical assistance, access to finance and facilitation of joint ventures)
- Encourage the efficient use of available resources including the good care of domesticated animals
- Consider appropriate ways to make procurement opportunities more easily accessible to community organizations, including, for example, through capacity-building on meeting technical specifications, and making information about procurement opportunities available
- Consider supporting organizations and persons that bring needed products and services to the community, which can also generate local employment as well as linkages with local, regional and urban markets where this is beneficial for the welfare of the community
- Consider appropriate ways to help in the development of community-based associations of entrepreneurs
- Fulfil its tax responsibilities and provide authorities with the necessary information to correctly determine taxes due so that governments can obtain revenues properly owed under applicable laws for use in addressing critical development issues
- Consider contributing to superannuation and pensions for employees

ISO 26000 implies that organizations can play an important role in developing compliance with laws and regulations within their communities, beginning with setting an example by the way in which they conduct their own operations and satisfy their obligations to local authorities with respect to fulfilment of tax responsibilities. In addition, the economic opportunities that an organization provides to local parties can often provide the resources those parties need to stop operating outside of the intended legal framework and become better citizens of the community. For example, an organization may engage with a local supplier by providing not only economic incentives in the form of commitments to purchase goods but also make capital available to the supplier to improve working conditions in the supplier's facilities, including the safety and health of the supplier's employees, and comply with applicable environmental and social laws and regulations.

Promoting Local Small Businesses for Economic Inclusion

Small- and medium-sized enterprises ("SMEs") play an important role in all communities, even those in which there is a single large dominant employer. In many communities the percentage of the population that is self-employed or employed by SMEs exceeds 50% and is often much higher. While organizations can provide direct assistance to one or more SMEs, perhaps because the target business provides goods and/or services that are directly relevant to the organization's own activities, they can also promote greater economic inclusion and economic development in the local community by supporting programs that improve the entrepreneurial capacity within the community and provide community members with skills and confidence to launch, grow and scale their own businesses and provide other community members with job opportunities and access to new and different products and services. While these programs focus primarily on entrepreneurship, they can also be expanded to include career development for others wanting to successfully connect with local job markets through access to information and enhancement of their existing skills. Performance measures can include the number of persons participating in the programs and outcomes such as new jobs created and the success of participants in advancing their careers by obtaining jobs that require the skills learned through the programs. In many cases, organizations prioritize their support on programs that specialize in assisting groups that are underrepresented in the local economy such as advancing entrepreneurship among women. Of course, training is only one piece of the puzzle, albeit essential, and organizations may contribute in related areas such as financing and infrastructure.

Health

As is the case if the standard of housing in a community is poor, businesses cannot operate effectively unless the members of their local communities have access to all that is needed in order for them to be healthy and free of disease. Many businesses do not think of themselves as being involved in the area of health; however, health is an essential element of life in society and a recognized human right and threats to public health can have severe impacts on communities and hamper their development and the progress of businesses operating in those communities.[41] According to ISO 26000, a

[41] Id. at 67.

health community reduces the burden on the public sector and contributes to a good economic and social environment for all organizations.[42] Among the "global challenges" identified by the Future-Fit Business Framework is the growing incidence of chronic diseases, an aging population and increasing risk of pandemics, all of which have been exacerbated by a lack of universal access to essential medicines, nutrition and sanitation.[43] The sustainable development goals of the 2030 Agenda for Sustainable Development include aspirations to end hunger and achieve improved nutrition; ensure healthy lives and promote wellbeing for all at all ages by ending preventable deaths and epidemics and achieving universal health coverage; and enhance scientific research.[44]

ISO 26000 requires that all organizations, regardless of size, respect the right to health and commit to contribute, within their means and as appropriate, to the promotion of health, to the prevention of health threats and diseases and to the mitigation of any damage to the community. Organizations that are directly involved in the health area, such as pharmaceutical companies, often contribute by making their medicines and other services available to residents of the local community at prices that are affordable and well below those charged in normal circumstances. Such organizations, as well as others not in a position to contribute in such a direct fashion, can also make a difference by participating in local public health campaigns, supporting public services and initiatives designed to improve access to health services. With respect to health issues, ISO 26000 recommends that organizations should[45]:

- Seek to eliminate negative health impacts of any production process, product or service provided by the organization
- Consider promoting good health by, for example, contributing to access to medicines and vaccination and encouraging healthy lifestyles, including exercise and good nutrition (particularly child nutrition), early detection of diseases, raising awareness of contraceptive methods and discouraging the consumption of unhealthy products and substances[46]
- Consider raising awareness about health threats and major diseases and their prevention, such as HIV/AIDS, cancer, heart disease, malaria, tuberculosis and obesity
- Consider supporting long lasting and universal access to essential health care services and to clean water and appropriate sanitation as a means of preventing illness

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[42] Id.
[43] Future-Fit Business Framework, Part 1: Concepts, Principals and Goals (Future-Fit Foundation, Release 1, May 2016), 11, FutureFitBusiness.org.
[44] http://www.un.org/sustainabledevelopment/sustainable-development-goals/
[45] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 68.
[46] Nutrition is a major issue in many communities, including areas where the overall level of economic performance is well above average. In Los Angeles, for example, 1.4 million people were in continuous need of assistance from foodbank as of the end of 2017 in spite of the economic growth that had occurred in that city over the prior years. See "Amid plenty, want: Poverty in California", The Economist (October 27, 2018), https://www.economist.com/united-states/2018/10/27/why-one-of-americas-richest-states-is-also-its-poorest, 25.

Improving the health and wellbeing of local community members is an important part of their community involvement and development programs for many organizations. For those businesses that are involved in some aspect to health care, such as development and/or distribution of relevant products and/or services, making those products and services readily available to those in the community who cannot otherwise afford them can be an important contribution that is easily integrated into the core business activities. Many communities have benefitted from programs that facilitate distribution of medicines free of cost and provision of financial and human resources to support the operation of clinics to treat minor ailments among community members. However, all companies, regardless of their operational activities, can provide financial and management support to other organizations working in the community to improve the health and wellbeing of residents through projects such as improving drainage systems, ensuring the availability of adequate clean drinking water facilities, enhancing sewage disposal and waste management systems, pollution controls, improvement of sanitation and construction of toilets etc.[47]

Improvements in services should be supplemented by health-related education on topics such as hygiene, nutrition and exercise to provide community members with the knowledge and skills to help them proactively manage their own health and assist their family members. Availability of social workers and mental health professionals should be supported in areas where poverty is or has been an issue to assist community members in coping with the struggles of day-to-day life. Businesses can also get involved in increasing access to quality healthcare by providing financial support, as well as technology and relevant management skills and experience, to programs and partnerships with other groups that focus on training health professionals, upgrading local health facilities, preventing the spread of particular diseases and promoting healthy lifestyle habits. In order to manage the scope and focus of their commitments, businesses with limited resources may concentrates on programs in a particular neighborhood of the community and/or programs for a smaller group such as infants or older people. In order to be successful in this area, businesses need to seek out expert opinions as to what will be the most impactful approach in the community and will need to be sure that the programs are supported by educational programs that assist community members in understanding how to access and use the improved services.[48]

Community health and diseases came in 12th in coverage out of the 17 categories of topics in the reports analyzed for the GRI Community Impact Reporting Survey, appearing in 26% of the reports. The topic was described as including reporting on

[47] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/ See also How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/ (a health services company provides financial and managerial support for local community health initiatives and a personal products company provides funding and technical support to expand access to clean, healthy and safe toilets throughout the local community).

[48] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/

initiatives aiming at improving hygiene of the community and/or dealing with a certain disease that had impacts on the community.[49] The performance indicators that companies reported on with respect to community health and diseases included the number of people/organizations/communities benefited by the provided services; the sum of money donated/spent for the initiative; the number of items/facilities donated, constructed or in operation; the number of people/families educated/trained in medical aspects; the number of medical treatments provided; the value of medical associated items donated; and the number of employees who participated in the health initiative. Reporting on community health and diseases also included several impact indicators such as the rate of decrease in malaria incidence and the number of deaths reduced.

Infrastructure

Infrastructure, particularly transportation, is an important local community issues for any business since all companies want to be sure that their employees and customers can move around easily and in a cost-effective manner in the areas surrounding the company's facilities. In some cases companies will be directly involved in funding and developing transportation solutions; however, most businesses prefer to contribute in other ways such as helping governmental agencies by undertaking studies and programs of technical and financial assistance to develop cheap public transport, increasing the operational efficiency and utilization of road capacity, enhanced licensing procedures, more rational and scientific estimates for vehicle fleet size and manpower for different modes of transport, improved maintenance and replacement policy for the spares and structural changes in urban and rural layouts.[50] Businesses also often provide support for the development and maintenance of airports and railroads to ensure that they can distribute their products and have ready access to inputs that must be brought in from outside of the local community.

32% of the reports analyzed for the GRI Community Impact Reporting Survey included coverage of infrastructure for local community, making that topic the tenth most popular out of 17 topics. The topic was described as including reporting on construction or provision of infrastructure for the benefit of the community (e.g., housing, roads, recreational facilities etc.).[51] The performance indicators that companies reported on with respect to infrastructure for the local community included the number of people/families/organization/communities benefited; the number/area/length of facilities built; the sum of money invested or value of construction material donated; the number of infrastructure projects involved; the percentage of sewage effluent recycled; and the volume of potable water produced. No impact indicators were identified and reported on with respect to local community infrastructure initiatives.

[49] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.

[50] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/

[51] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.

Technology Development and Access

Among the economic, geopolitical and technological challenges and risks for businesses and society in general identified by the World Economic Forum are failure to adequately invest in, upgrade and/or secure infrastructure networks (e.g. energy, transportation and communications), leading to pressure or a breakdown with system-wide implications; intended or unintended adverse consequences of technological advances such as artificial intelligence, geo-engineering and synthetic biology causing human, environmental and economic damage; and cyber dependency that increases vulnerability to outage of critical information infrastructure (e.g. internet, satellites, etc.) and networks, causing widespread disruption.[52] The sustainable development goals of the 2030 Agenda for Sustainable Development include aspirations to develop quality, reliable, sustainable and resilient infrastructure; enhance scientific research and significantly increase access to information and communications technology (e.g., providing universal and affordable access to the Internet).[53] ISO 26000 argues that in order to help advance economic and social development, communities and their members need, among other things, full and safe access to modern technology, and points out that many organizations are well situated to contribute to the development of the communities in which they operate by applying specialized knowledge, skills and technology in such a way as to promote human resource development and technology diffusion.[54] Of particular interest are information and communication technologies that would allow community members to have greater access to the information that they need in order to overcome disparities that exist among and between countries, regions, generations and genders.

ISO 26000 points out that an organization that is able to make contributions with respect to technologies may do so through training, partnerships and other actions and should[55]:

- Consider contributing to the development of innovative technologies that can help solve social and environmental issues in local communities
- Consider contributing to the development of low-cost technologies that are easily replicable and have a high positive impact on poverty and hunger eradication
- Consider, where economically feasible, developing potential local and traditional knowledge and technologies while protecting the community's right to that knowledge and technology
- Consider engaging in partnerships with organizations, such as universities or research laboratories, to enhance scientific and technological development with partners from the community, and employ local people in this work
- Adopt practices that allow technology transfer and diffusion, where economically feasible, including setting reasonable terms and conditions for licenses or technology

[52] The Global Risks Report 2017 (12th Edition) (Geneva: World Economic Forum, 2017), 63. The Report and an interactive data platform are available at http://wef.ch/risks2017.
[53] http://www.un.org/sustainabledevelopment/sustainable-development-goals/
[54] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 65.
[55] Id. at 66.

transfer so as to contribute to local development and taking steps to enhance the capacity of the community to manage the technology

Technology-focused companies often turn to their core business activities as sources for community-related projects and activities. For example, a communications technology company may decide to underwrite and build systems to provide wireless technology to underserved groups in the local community.[56] Another way that businesses can contribute in this area is to follow the recommendations of the OECD Guidelines, which call on companies, where appropriate, to perform science and technology development work to address local market needs and employ and train local personnel to assist in technology development work to build local capacity. The OECD Guidelines also provide that companies should, where relevant to commercial objectives, develop ties with local universities and public research institutions and participate in cooperative research projects with local industry or industry associations.

Agriculture

Companies operating in or near areas where there is large unemployed rural labor force and land available for agriculture development can provide substantial assistance either directly, if that is consistent with their core operational activities, or through financial support to organizations with the skills to train the labor force and build the infrastructure necessary for effectively cultivating the land. At a minimum, companies can participate in agriculture development in their communities by providing financial support, as well as "in house" expertise, to gather information on climate and soil conditions and water supply and then provide further assistance for development and maintenance of farming and breeding facilities (e.g., seeds, pesticides, livestock etc.). Companies can also participate in efforts to provide community farmers with access to necessary expertise and finance and develop linkages between the agricultural and industrial sectors.[57]

Housing

It is difficult for any business to operate in a community in which residents, including employees of the company want to live in proximity to the company's facilities, do not have access to adequate housing facilities. Some businesses focus their housing efforts on building and maintaining housing for employees and their families; however, companies can contribute to housing in a number of ways including providing financial assistance for rent and mortgage payments, underwriting construction activities and providing manpower support for architecture, engineering and construction.[58]

[56] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/

[57] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/

[58] Id.

Access to affordable housing is an issue that has reached a crisis stage even in what would otherwise appear to be a vibrant environment for economic performance. California, for example, has grown to become one of the largest and most prosperous economies in the work, yet it is the state with the largest share of people in poverty (measured by reference to local costs of living) and, as the most populous state, it also has the large number of poor people (7.4 million as of the end of 2017). Ironically, most of the poor people in California have jobs, studies indicating that 80% of those living below the cost of living-adjusted poverty line are in households with at least one person working; however, while incomes at lower levels are not increasing as fast as many hope the real issue appears to be income boosts are badly trailing souring costs—particularly the cost of housing. Rents in a limited housing stock are soaring and state and local regulations have delayed development of affordable housing projects and made them prohibitively expensive.[59] Most companies are not directly involved in the development, construction and maintenance of housing units; however, they have a clear interest in engaging in policy discussions relating to affordable housing since failing to address the issue will perpetuate poverty among a large swath of the population and deprive businesses of potential employees and customers.

Access to Affordable and Clean Energy

Companies can support the formation of local enterprises to improve access to affordable and clean energy sources for homes, schools and other public buildings in the local community resulting in significant improvements to quality of life for a large percentage of the community population (progress can be readily measured through objective criteria such as the percentage of households that gained access to electricity). Support often takes the form of financial contributions; however, depending on its own resources a company can also provide local energy enterprises with technology and expertise in areas such as management, planning, budgeting and communications (e.g., helping the enterprise in its efforts to inform community members of the available services and instruct them on how to use equipment and devices that may be new and unfamiliar). Another way that companies can contribute to the wellbeing of the community is to invest in solar power to reduce the risk of adverse environmental impact from energy generation and usage in the community. [60]

Social Inclusion and Aid to Disadvantaged Community Groups

Just 14% of the reports analyzed for the GRI Community Impact Reporting Survey included coverage of social inclusion and aid to disadvantaged community groups, placing that topic near the bottom of the list of 17 topics. The topic was described as including initiatives aiming at supporting socially disadvantaged groups (such as

[59] Amid plenty, want: Poverty in California, The Economist (October 27, 2018), https://www.economist.com/united-states/2018/10/27/why-one-of-americas-richest-states-is-also-its-poorest, 25.

[60] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/

handicapped, racially and sexually discriminated) to become included in the society.[61] The performance indicators that companies reported on with respect to this topic included the number of people benefited; the number of locations that had initiative-related activities conducted; the percentage of minorities included in workforce or education program; the sum of money donated for the initiative; the value of subcontracted products and services provided by special employment centers; and the number of self-help groups formed. The impact indicator identified and reported on with respect to this topic was the percentage of program participants reported positive impacts on their lives.

A related topic, poverty alleviation, was reported on in 13% of the reports and included reporting on initiatives aiming at improving the living conditions and well-being of underdeveloped communities. The performance indicators that companies reported on with respect to this topic included the sum of money invested/donated, the number of people/families benefited and the number/value of items donated. The impact indicators identified and reported on with respect to this topic included the size of land brought under cultivation and the percentage increase in average annual personal income.[62] Poverty alleviation is a common feature among the community programs of most businesses and companies often look to contribute through their core business activities. For example, a financial services business may offer, at no cost, a portfolio of financial services to the underserved in its local community and a consumer foods company may provide meals to local food banks.[63]

Community Development

While a sustainable entrepreneur may have great ideas for products and services, it may not be enough to be successful unless the business is operated in a supportive environment. While many companies are launched in small spaces and often change locations multiple times, sustainability demands that a business eventually find a place where it can settle into the community and develop ensuring relationships with community members and a strong story to tell to prospective employees and customers that draws them to the place that the company calls home. Great communities for sustainable entrepreneurship do not develop on their own, they are the product of strategic and courageous decisions by community leaders from the public and private sector to make important, sometimes risky, long-term investments, and the discussion below addresses how businesses can contribute to building sustainable communities and the reasons why they should.

An Op-Ed piece appearing in *The New York Times* in November 2018 highlighted one of the reasons why sustainable entrepreneurs and their companies need to engage in debates among lawmakers, regulators, community groups and neighboring businesses regarding

[61] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 29 and 33.
[62] Id.
[63] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/

the focus and direction of land use policies in the areas in which the company operates and their employees and customers live and go about their daily routines.[64] The author sought to make the point that "environmentalism is a long-term investment" that should not be ignored or rejected and argued that if Chicago had not been forced by the public sector to clean up the Chicago River in the 1970s and 1980s and create and maintain open around it, large swathes of the downtown area would have remained an eyesore and the city and businesses operating there would have been deprived of billions of dollars of economic value. His view was that explicit policy decisions and related regulations to preserve and clean public lands can and often do unlock private-sector wealth and, as such, should be supported by businesses seeking to act in a sustainable manner:

> "Closing a national monument to allow oil drilling—or terminating the Land and Water Conservation Fund—might help a company make more profit in the short run. But a vast array of benefits will also be destroyed. … Accessible public lands and vibrant wildlife bring people to small towns and rural areas. They attract tourists and give residents a reason to stay, and give an enormous boost to the private sector . . .".

Assuming there is some truth to this proposition, acting in an environmentally and socially responsible manner requires that companies engage in the political and regulatory process to design and support appropriate initiatives to address market failures that end up giving too much weight to short-term profitability at the expense of long-term sustainability. It is certainly true that compliance with the clean-up regulations in the early years involved additional expense for companies operating near the Chicago River, including higher taxes to pay for public sector investments, and that many of those companies had to implement material changes to the way in which they operated; however, the health and safety risks to employees, visitors to the facilities and community members were clear. As time went by, the companies began to see the economic value from the early investments as the risks subsided and the area began to attract new businesses that brought in more customers. In addition, the development efforts generally include improvements to public transportation and housing that make it easier for potential employees to access the area, usually resulting in a significant improvement in the size and quality of the talent pool for local companies.

While the Chicago story played out in a large urban area in a major city, the same lessons and opportunities apply in small towns and rural areas, literally anywhere that a sustainable entrepreneur might choose to launch his or her business. As noted in the quote above, rural towns that make a concerted effort, with the support of local businesses, to protect and maintain their public lands can continue to thrive through tourism and by becoming a "great place to live and work" that attracts new companies that want to be able to offer something special to their employees. By encouraging policymakers in their local communities to invest in maintaining and improving

[64] A. Goolsbee, "Environmentalism Is a Long-Term Investment", The New York Times (November 4, 2018), BU-4.

environmental conditions, sustainable entrepreneurs can participation in the creation of a network that improves access to the services needed for their businesses to be successful.

Businesses can also contribute through their support of specific initiatives and events that can help transform conditions in their communities and the day-to-day lives of community members. For example, companies should develop relationships with local community development organizations, perhaps assuming leadership roles, in order to keep abreast of ideas and identify and seize on opportunities associated with future community investments. Companies should monitor plans for creating more public lands for development and making under-utilized public lands available for private sector development. Companies, large and small, can also contribute cash and human capital to support events that showcase local merchants. Finally, companies can work with local governments, other businesses in the area and nonprofit community development organizations to make the area more attractive for prospective employees, shoppers and other visitors by supporting new playgrounds and recreational areas, development of an entertainment district and establishment of satellite campuses of local universities so that people who live and work in the community can have access to courses that will improve their skills and capacity to contribute to community businesses.[65]

Strengthening Civil Society

Companies may engage in philanthropy and charitable giving to strength local organizations and empower them to grow their own resources and capacities to assist members of the local community and solve local problems in ways that help build trust among various groups within the community. Among other things businesses can provide funding and other resources to facilitate community meetings and events at which members of the community can meet to discuss issues and gain a better understanding of the perspectives of different groups within the community. These meetings and events can form the foundation for more formalized processes of debate and collaboration that eventually result in community programs and initiatives that have a wide base of support and which capture the enthusiasm of the community because they were developed "from the ground up". Companies can also facilitate justice and the development of strong institutions within the community by, for example, providing financial support for legal aid programs for the underserved in local communities.[66]

Humanitarian Crises and Emergency Relief

Increasingly, albeit unfortunately, businesses are called upon to deal with the challenges created by humanitarian crises or other circumstances that pose substantial threats and disruption to the lives of members of communities in which a business is involved. According to ISO 26000, examples of such situations include food security emergencies, natural disasters such as flooding, droughts, tsunamis and earthquakes, displacement of

[65] The ideas in this paragraph are adapted from J. Karras, 12 Strategies That Will Transform Your City's Downtown (February 5, 2014), http://urbanscale.com/blog/12-strategies-will-transform-citys-downtown/
[66] Id.

populations and armed conflicts.[67] In addition to disruption, such events can aggravate existing social and economic problems in the community and often increase the risks of human rights abuse. Contributing to the alleviation of these situations is generally in an organization's business interest given the need to support existing activities and partners in the affected area; however, acting in a socially responsible manner dictates that businesses should assist out of "simple humanity".[68] A number of different methods are available for contributing to the response these types of events including disaster relief and re-building efforts. Many companies contribute in ways that are consistent with their core business operations, such as a hospitality company that provides complimentary lodging for relief workers.[69] In all cases, however, the manner in which the response is carried out is particularly important and businesses need to be mindful of supporting and respecting the dignity and rights of victims and paying special attention to those victims who are especially disadvantaged and vulnerable and unable to effectively advocate for assistance on their own. Businesses should also work closely with public agencies and humanitarian organizations to ensure an efficient coordinated response.

Building the Business Case

While many hope that community engagement and investment initiatives will be compelling in their own right because of the need for businesses to participating in addressing significant challenges, needs and threats in their local communities, the reality is that executives and managers proposing community projects must be prepared to demonstrate a strong business case for those initiatives in order to mobilize sustained commitment to them throughout the organization and ensure that the appropriate resources are allocated to the initiative and that the necessary changes are made to company's measurement, management, recognition and reward systems.[70] As evidence for the importance of the business case, Willard, who has written extensively on best practices among companies with respect to sustainability, pointed to a report by Bain & Company, "Achieving Breakthrough Results in Sustainability", that was based on a survey of over 300 large companies engaged in sustainability efforts and found that 98% of their sustainability initiatives had failed.[71] According to Bain & Company, one of the five reasons for this dismal failure rate was "lack of a compelling business case".

While the results of its survey were discouraging, Bain & Company believed that companies could improve their performance with respect to sustainability initiatives by

[67] International Organization for Standardization, ISO 26000: Guidance on Social Responsibility (Geneva, 2010), 63.
[68] Id.
[69] How 17 Companies Are Tackling Sustainable Development Goals (and Your Company Can, Too) http://sdgfunders.org/blog/how-17-companies-are-tackling-sustainable-development-goals-and-your-company-can-too/
[70] B. Willard, "Introduction" in Sustainability ROI Workbook: Building Compelling Business Cases for Sustainability Initiatives (May 2017 Edition) (the Workbook, which is regularly updated, is available for download, along with other information on corporate sustainability projects, at http://sustainabilityadvantage.com/).
[71] Id. Citing and describing J. Davis-Pecdoud, P. Stone and C. Tovey, "Achieving Breakthrough Results in Sustainability", Bain & Company (January 2017).

following four guidelines: “make a public commitment”, “lead by example at the top”, “highlight the business case” and “hardwire change through incentives and processes”. Willard argued that a compelling business case should be seen as the prerequisite for the other three guidelines since executives could not reasonably be expected to do any of the other things unless they were convinced that the initiative was good for the company and its direct stakeholders (i.e., investors, employees and customers), as well as good for the environment and for society as a whole. Willard also pointed out that “strong leadership support”, cited by Bain & Company as one of five factors that contributed to successful sustainability initiatives, could only be expected if the business case was strong enough to earn the endorsement, engagement and proactive support of company executives and senior managers and that such support paved the way for the other success factors mentioned by Bain & Company: “employee engagement and interest,” “clear goals and metrics,” “effective internal communication,” and “introduction of environmentally friendly policies/processes.” Willard made his pragmatic case for focusing on the business case for sustainability initiatives as follows:

> “We need to meet executives where they are and honor their need for compelling ROI information when they assess proposals. If an initiative improves the company’s reputation, grows revenue, saves expenses, engages employees, helps win the war for talent, spurs innovation, meets company norms for payback periods, provides a good internal return on investment, increases the value of company assets, and / or contributes to higher share prices, of course executives will support it.”[72]

There are a number of different methods that can be used to develop a business case; however, Willard has developed a customized approach that he recommends for sustainability executives and managers looking to build the business case for sustainability initiatives. Willard’s “sustainability return on investment” workbook “provides a comprehensive cost-benefit analysis framework by which to build a tailored business case for single or multiple sustainability initiatives implemented within various timeframes”, is extensively annotated and should be consulted directly for practical guidance on developing and implementing sustainability initiatives.[73] The elements of Willard’s method for developing the business case for a sustainability project or initiative are based on his assumption that there are only three reasons that companies undertake major projects and that these justifications for investment must be borne in mind when making the case for implementation to decision makers:

- “Do the Right Thing”: This justification means activating the company’s purpose and values, being ethical, and making sure that projects and initiatives are aligned with the company’s strategic direction and mission. Willard explained that something is “right” when it improves the wellbeing of stakeholders and that since society and the environment are stakeholders there is a strong justification for sustainability projects and initiatives that improve their wellbeing by reducing harmful impacts and

[72] Id.
[73] Id.

increasing positive impacts. In addition, a sustainability project or initiative may be the "right thing" for the decision maker's own personal values, wellbeing and aspirations.

- "Capture Opportunities": This crucial justification speaks the need to the chief executive and financial officers to accommodate the needs of the company's investor stakeholders by not approving any sustainability project or initiative that cannot be cost justified over a specified planning period, be it short- or long-term. When presenting a business case consideration must be given to the specific financial metrics that are motivating the decision makers and these may vary and can include return on investment, reductions in expenses, top-line revenue growth and/or the impact of the project or initiative on the company's investment market value and share price.
- "Mitigate Risks": Willard explained this justification as being the flip side of "Capture Opportunities" and pointed out that prudent stewardship of the company's assets and principles of good governance demanded implementation of robust enterprise risk management processes. Part of those processes is examining each new project or initiative from a risk management perspective and that requires that business cases must quantify risks that could arise if the project or initiative was not undertaken and the risks that could arise if the project or initiative fails.

While each of the justifications should be addressed in every business case the appropriate weighting will depend on the particular circumstances and the personal concerns and approaches of the decision makers involved. In many cases capturing opportunities and/or mitigating risks will remain the predominant factors for decision makers, even as the company is looking to integrate sustainability into its operations; however, the need to "do the right thing" is becoming increasing important as non-investor stakeholders, such as employees and customers, apply pressure on executives to take societal and environmental wellbeing into account. Moreover, when a company decides to "do the right thing" by improving working conditions for its employees it will hopefully see that the company's capacity to capture opportunities will be enhanced due to the involvement of a happier and better trained workforce.

Willard argued that each business case for a sustainability project or initiative should include several common elements, each of which is related to one of the justifications described above:

- When a project or initiative is recommended as being in furtherance of the desire to "do the right thing" it must be aligned with the company's purpose, values, mission, vision, principles, beliefs and long-term strategic goals.
- When a project or initiative is recommended as a means for capturing opportunities it should include a cost-benefit analysis and return on investment assessment that supports one or more particular categories of opportunities such as revenue growth from improved company reputation with customers, innovative sustainable products, services and financing and strong brand and social license to operate; operational expense savings and improved efficiencies or human resource expense savings (e.g.,

lower hiring and attrition costs and increased productivity). Additional opportunities may be available with respect to asset and/or market value improvement.
- When a project or initiative is recommended as a means for mitigating risks the business case should address mitigation of risks of inaction (i.e., if the initiative is not undertaken by the company and its competitors do) and mitigation of risks of taking action (i.e., if there might be cost overruns, delays, or collateral damage). For example, a project or initiative may be appropriate to mitigate the risk of lost revenue from poor company reputation with customers; the risk of lost revenue from outdated products and services; or the risk of higher energy, carbon, materials, water, waste, maintenance, travel and/or transportation expenses.

The business case should also address potential benefits to the company with respect to "reputation" and "innovation"; however, it should be acknowledged that impact and value to these areas from a particular project or initiative will be difficult to quantify in the same manner as revenues and expenses. In spite of the measurement challenges, successful projects and initiatives can improved reputation with customers, which may drive revenue growth; improve reputation with employees that drives engagement and productivity that eventually leads to human resources expenses savings; and improve reputation with investors that causes the company's market value to increase. In addition, projects and initiatives that produce new revenues and cost savings are generally new and innovative and will lead to advances in many operational areas including policies, products, processes and practices.

Willard recommended the following multi-step process for creating a business case for sustainability projects and initiatives, which process can and should be adopted for creating a business case for a community investment project:

- ***Step 1 – Prepare a High-Level Description of the Project or Initiative and the Proposed Scope:*** Describe the project and indicate if it applies to the whole company/all departments/all product lines or one location/one department/one product line. Indicate whether this is the business case for the whole project or just for the extra investment required to make an already planned and approved project "sustainable". The business case should identify the department that will manage the project, sources of required capital and which accounts or budget line items will be impacted.
- ***Step 2 – Describe the Business and Sustainability Needs:*** Describe the business problem(s) that the project or initiative will address, the overall opportunities it will capture, how it relates to the company's strategic plan, and why it is timely. In addition, describe how the project or initiative will improve the company's current level of performance on one or more of its sustainability goals (i.e., the expected percentage change in progress toward the goal(s) after successful completion of the project or initiative). Also estimate the extent, if any, to which other sustainability goals may be positively or negatively impacted by the project or initiative.
- ***Step 3 – Describe How the Project or Initiative Activates the Company's Purpose and Values:*** Move beyond the impact on the company's sustainability goals to

describe specific ways in which the project or initiative helps fulfill the company's purpose and values and aligns with the company's mission, vision, principles, beliefs and long-term strategic plans.

- ***Step 4 – Estimate Potential Revenue Growth and Expense Saving Benefits and Do a Cost-Benefit and ROI Analysis:*** Revenue growth may come from improved reputation with customers, innovative sustainable products, innovative service and finance offerings and/or improved social license to operate/brand. Savings may come from savings on energy, carbon, shipping and transportation, business travel and/or maintenance expenses; lower materials, water and/or waste disposal costs; lower insurance premiums; lower litigation and compliance expenses; lower cost of capital; and lower hiring and attrition costs coupled with higher productivity from employees.[74] Use the estimates to develop and analyze projected benefits and expenses over the term of the project or initiative and determine NPV, IRR, Payback Period etc. using the company's normal discount rate.
- ***Step 5 – Estimate Asset Value and Market Value Opportunities:*** Companies may achieve an increase in several classes of asset values including company-owned buildings and properties, company-owned vehicles and equipment and the company's investment portfolio. In addition, the project or initiative will hopefully create an opportunity for increasing market value/capitalization.
- ***Step 6 – Estimate Revenue and Expense Risks*** If the Project or Initiative is Not Undertaken: There are situations where companies need to consider revenue and expense risks is a project or initiative is <u>not</u> undertaken. Potential loss of revenues may come from poor reputation of the company with customers, outdated/unsustainable features, lack of potential services and financial offerings and weak brand and social license to practice. In addition, foregoing a project or initiative may cause increased expenses for energy, shipping and transportation, business travel and/or maintenance; higher materials, water and/or waste disposal costs; higher insurance premiums; higher litigation and compliance expenses; higher cost of capital; and higher hiring and attrition costs coupled with lower productivity from employees.
- ***Step 7 – Estimate Asset Value and Market Value Risks If the Project or Initiative is Not Undertaken:*** In addition to the revenue and expense risks of <u>not</u> undertaking a project or initiative, companies must consider the likelihood of decreases in several classes of asset values including company-owned buildings and properties, company-owned vehicles and equipment and the company's investment portfolio. In addition, failing to pursue a project or initiative may damage the company's market value/capitalization.
- ***Step 8 – Estimate Contingency Risks Associated with Doing the Project or Initiative:*** As with any business case, estimates and projections are not always accurate and the case should include estimates of contingency risks associated with doing the project or initiative including risks if the project does not meet expectations,

[74] Productivity gains from employees may come in different forms such as gains from more time on the job (i.e., gains from less unplanned absenteeism, more telecommuting and/or reduced business travel) and gains while on the job (i.e., gains from working in green buildings, improved collaboration and/or higher employee engagement).

is delayed, has cost overruns or meets expectations at first but fails later; risks if the initiative succeeds but causes unforeseen negative "collateral" impacts in other areas; and objections that are like to occur and must be addressed if and when they are raised by opponents of the project or initiative.

IO Sustainability ("IO"), an international research and management consulting firm that help clients with aligning their environmental, social and governance ("ESG") performance with long-term value, found that thoughtful and well planned social investments can deliver financial returns on investment as well as related business and competitive benefits. IO argued that data confirms that social investment can support returns related to corporate share price performance; sales; employee turnover; employee productivity; reputation; financial risks and costs; however, IO made it clear that merely forming a social investment function is not sufficient and companies must invest the time and resources necessary to ensure that its social investment programs are well designed, managed and integrated into the business.[75]

IO proposed a "fit, commit, manage and connect" framework that companies should follow to successfully create value for the business and impact in the communities in which they are operating[76]:

- Fit, or alignment, refers to giving priorities to the company's core purpose, strategies, products and competencies and requires defining priority issues; defining and branding a strategy that aligns and reinforces the company's CSR approach, improves lives in a tangible and large-scale way and uses products, business processes and/or employees; and explicitly ties to business objectives and needs at the ground level.
- Commit refers to making an impact in the chosen areas of fit by allocating resources, time and energy beginning with differentiating through the expression of big, clearly stated commitments to be a leader in addressing priority issues and related ESG risk areas that could impact revenues and costs through reputation, the regulatory environment or the social license to operate, and then continuing on to promote and communicate activities through partnerships.
- Manage refers to carrying out the social investment program with clear objectives and measures in mind and focusing on impact, improvement and scaling-up rather than simply expanding giving budgets. Companies need to set measurable targets and make a wide-range of executives, managers, and teams accountable for meeting them.
- Connect is related to engagement and includes developing and communicating clear messages about the company's efforts; involving communities, customers, employees and shareholders in the design and delivery of social investment projects and finding opportunities to partner. Community issues are not easy to address and dialogue with multiple stakeholders is necessary to identify the most appropriate solutions. When determining which stakeholders to engage in promoting the strategy consideration should be given to the extent to which stakeholders influence sales, brand/reputation,

[75] S. Rochlin, The Business ROI of Social Investments (IO Sustainability, 2017), 9.
[76] Id. at 10.

customer purchasing, investment, regulation; the social license to operate and human resources.

Other important things to consider include defining the key performance indicators that social investment will support, utilizing the company's capabilities, developing the right internal partnerships with business lines and staff functions and not neglecting the need to measure community impact and business benefits and not just inputs and outputs. IO also specifically cautioned about mistakes that companies often make that ultimately hold them back with respect to achieving the best value from their social investment initiatives: maintaining long-standing legacy programs; responding to the expectations, needs, and squeaky-wheel voices of senior executives, communities, activist shareholders, employees, and customers; a perspective among executives that the company should not try to build awareness for social investment activities; and allocating only enough resources to measure outputs but not outcomes and impacts.[77] Companies need to aggressively, and sometimes painfully, address each of these potential problem areas. For example, de-emphasizing, if not wholly eliminating, a long-standing philanthropic initiative can be disruptive; however, a strategic approach to social investment demands that companies regularly review and rebalance their social investment portfolios in order to allocate sufficient resources to those initiatives that are most closely related to the then-current strategic priorities.

Structuring Corporate Philanthropy Initiatives

While there are a number of different ways that for-profit businesses can "give back" to their communities by making gifts of cash and other items to charities and other nonprofit organizations, it is important to understand three basic methods that are commonly used for philanthropic activities: direct-giving programs; a company foundation formed and sponsored by the business, which can be a private foundation or a public charity; and a donor advised fund. Businesses are not limited to just one of these methods and may shift the focus of their philanthropic activities from one method to another as time goes by and the goals of the philanthropic program change. For example, smaller businesses will generally begin with a modest direct giving program in order to conserve resources. As the business expands and revenues sufficient to support more ambitious philanthropy become available it may be appropriate to establish a foundation while continuing direct giving for certain types of causes and programs.[78] Regardless of whether a company creates an internal group or a separate entity, job descriptions and roles and responsibilities need to be prepared and defined for all team members and appropriate connections need to be forged between the community engagement and development team and departments and groups within the company that can provide support such as budgeting, procurement, accounting, finance, administration and information technology.

Direct Giving

[77] Id. at 11.
[78] The discussion in this section is adapted from various sources including S. Petit, A Basic Guide to Corporate Philanthropy (Adler & Colvin, March 2010).

A direct giving program is the simplest method for engaging in corporate philanthropy. One or more charities or other nonprofit organizations in the community are selected for support, often with input from employees and members of the local community, and the business contributes cash or other items of value (i.e., products) that the done can use to fulfill its own mission within the community. In many cases provision will be made for employee matching gifts so that the entire effort builds connections between employees and the company. There is no need to create a separate legal entity to engage in direct giving and such programs are not subject to public disclosure requirements or the complex rules described below which are applicable to company-sponsored foundations. If the company wants to be able to deduct its contribution it should ensure that the donee is tax-exempt under Section 501(c)(3) of the Internal Revenue Code ("IRC") and organized in the United States. This is important because giving to a nonprofit entity is not sufficient to assure deductibility if the entity is not also eligible under the IRC to receive charitable donations. Special rules apply regarding the amount of charitable contributions that can be deducted each year and how contributed property will be valued for purposes of determining the deductible amount. Charitable contributions can either be "unrestricted", which means that the donee can decide how they are used, or made subject to specific instructions from the donor that they be used for a particular charitable purpose. Records should be created and maintained to substantiate that contributions were made and how the value of donated property was determined.

Businesses can, and often do, launch and design direct giving programs that are highly structured and managed by a separate group within the organization, often with input from employees who are allowed to make recommendations on grants and volunteer programs and from community leaders serving as outside advisors. In many cases, however, direct giving activities are conducted in an *ad hoc* fashion with no specific budget or strategic purpose. For example, companies may be approached by community groups to purchase tables at fundraising dinners or donate products that can be raffled off to raise funds for a local school or community arts facility. Indirect contributions may be made by paying employees for the time they spend volunteering for local charities. All of this is worthwhile and creates goodwill among employees and within the communities in which the business is operating. It also allows companies to get started with their philanthropic programs without significant administrative costs. Increasingly though businesses have realized that philanthropy can and should be viewed in a strategic fashion in order to provide better value to both donors and donees and bring more efficiency to the philanthropic process. In order to achieve these benefits, consideration should be given to creating corporate foundations to plan, execute, track and publicize significant philanthropic initiatives.

Corporate Foundation

Simply stated, a corporate foundation is a separate legal entity formed by and closely affiliated with the company which is to be organized and operated in a manner that reflects the mission and interests of the company and its stakeholders. While corporate foundations generally rely primarily, if not exclusively, on regular contributions from the company to support their giving activities it is also possible for the foundation to solicit funding from public sources in order to expand the potential range of the foundation's work. Like any business, a corporate foundation decides each year how much of its assets will be currently deployed in philanthropic activities and how much will be set aside as an endowment reserved for future use. Establishing a corporate foundation provides the company with flexibility to make its philanthropic contributions in a way that is most efficient from both a tax and overall financial perspective. For example, if the company is having a profitable year it can make a larger tax-deductible contribution to the foundation, thus reducing the company's tax bill while enhancing the resources of the foundation without straining the financial assets of the company. The contributions made during profitable years will be available in later years to support continuity in the foundation's programs even if the company itself is not doing as well in those years and thus is not able to make a current year contribution to the foundation. Using a corporate foundation allows companies to impose stronger requirements on donees regarding the use of grant funds and also allows company executives to direct requests for support of charitable causes to an external unit that is still aligned with the company's strategy and mission but has its own decision-making procedures. However, to avail itself of the advantages of a foundation, particularly the potential tax benefits, companies need to be prepared to understand and adhere to the complex laws and regulations applicable to private foundations or public charities and make public disclosures regarding the management and activities of the foundation.

Corporate foundations are nonprofit organizations and the predominant form of nonprofit organization is the corporation. There are several distinctions between nonprofit and profit corporations: a business corporation generally exists to make a profit for its shareholders; however, a nonprofit corporation (particularly a charitable organization) exists primarily to advance a purpose or objective; a business corporation ultimately benefits the shareholder or shareholders, but nonprofit corporations generally do not have shareholders and are not even required to have a class of members that the organization serves (however in many cases a corporate foundation will be organized as a nonprofit corporation with a single member, the company that is sponsoring the foundation, so that the sponsor can exert influence over the corporation's activities); the goal and focus of the management of charitable organizations should be to advance the entity's stated purposes, rather than the interests of any group of individuals affiliated with the charity; and although nonprofit organizations need revenues to sustain their operations, much of these revenues will be in the form of contributions or grants (i.e., contributions from the company in the case of a corporate foundation); the pursuit of enterprises or activities solely to generate a profit can jeopardize an organization's tax exempt status.

For most nonprofit corporations, including all charitable organizations, if the organization desires preferential tax treatment it must apply to the state taxing authority for a determination of the entity's exempt status. In addition, nonprofit corporations must also apply to the Internal Revenue Service ("IRS") for a determination of exempt status for federal income tax purposes, unless the organization qualifies for an exception to this requirement, as in the case of religious organizations having an annual income of less than $5,000. Exempt organizations are initially divided between public charities and private foundations, each of which are required to file annual information returns with the IRS but are subject to very different tax rules that have important consequences on how the organization is operated. Public charities are, as the name implies, publicly supported and include organizations like the United Way and March of Dimes, as well as churches, schools and hospitals, and received favored treatment under the IRC. While companies launching and sponsoring corporate foundations usually expect to underwrite the activities on their own it is possible for such a foundation to raise a significant amount of funds through fundraising and qualify as a public charity if at least one third of its support comes from the general public.

In contrast, private foundations are not publicly supported and are divided between operating foundations and non-operating foundations. Many companies prefer private foundation status because it is consistent with the retention of control over the mission of the corporate foundation and the use of the funds contributed by the company. A private foundation may be controlled by a single donor or a small group of donors need not be concerned with fundraising from outsiders in order to satisfy the public support test imposed on public charities. However, a private foundation must adhere to certain operational restrictions in order to maintain tax exempt status and avoid excise taxes and other penalties. Among other things, a private foundation must:

- Satisfy minimum annual payout requirements of at least 5% of the fair market value of the previous year's assets
- Pay a 2% tax annually on net investment income
- Avoid self-dealing transactions with insiders
- Limit its ownership interest in any one business to 20% in order to avoid "excess business holdings"
- Avoid risky investments that jeopardize the accomplishment of the foundation's charitable purposes, which means that the foundation will need to perform rigorous due diligence before making an investment
- Avoid contributions to individuals, other private foundations or non-charitable organizations which might be deemed to be "taxable expenditures"

These restrictions will require that private foundations establish a formal compliance team to vet any contribution, grant or investment to ensure that it is not being made for the benefit of, or to fulfill promises made, the company or any of its insiders (e.g., the foundation should not make matching grants to satisfy pledges that were made by the company to a local nonprofit). The foundation should also not rent office space from the company or contract with the company for administrative services. In turn, the company should not use an asset of the foundation, such as office space or information, for its benefit. While efforts have been made to structure arrangements for dual use of assets by companies and the foundations that they support in a way that transparently and fairly allocates shared expenses, it is likely that they will be challenged as violations of the self-dealing rules. All of this means that companies must be prepared to provide sufficient financing to allow the foundation to purchase and/or lease furniture, equipment and office space from unrelated parties. Companies can donate cash, staff and personal property to the foundation but cannot engage in sale, exchange or lease transactions even if the foundation would be receiving assets at prices well below fair market value and much more favorable than it would have to pay in the open market.

Deciding on public charity or private foundation status is an important part of the pre-formation process for launching a corporate foundation and requires attention to a number of fundamental questions about the purpose and goals of the foundation. Among other things, the company needs to think about why the affiliated organization is being formed, how it will be funded (both initially and over the life of the organization) and staffed, how it will be governed and managed (e.g., who will serve as the directors and officers), how much control the company wants to have over the operations of the organization and how its assets are used and, of course, the tax consequences associated with company contributions and organizational activities.

Nonprofit corporations are formed pursuant to state statutes and each state has its own specific requirements with respect to the formation and organization of nonprofit corporations (many states will require that corporate foundations be formed as a "public benefit corporation", one of several types of nonprofit corporations recognized by statute). Two of the biggest tasks for forming and organizing a new nonprofit corporation are drafting its articles of incorporation and bylaws, often referred to together as the "charter documents". Many of the issues which must be addressed in drafting the articles for a for-profit corporation must also be considered in preparing the articles for a new nonprofit corporation. In addition, the content of the articles of incorporation for a nonprofit corporation will vary depending on the complexity of the proposed corporate structure and the proposed activities of the corporation. For example, the articles may be similar in form and content to complex articles used for a for-profit corporation, or may simply follow the minimum corporate and tax law requirements. State nonprofit corporation statutes will include a list of the mandatory provisions which must be included in the articles of incorporation and optional provisions which may also be included in appropriate situations. In addition to the articles of incorporation, a nonprofit corporation also has bylaws that detail the internal corporate governance, such as a description of the corporation's directors and members (if any); the rules for noticing and conducting meetings; the rules for electing and removing directors; and a description of the duties of corporate officers.

As with for-profit corporations, each nonprofit corporation must have a board of directors. The boards of corporate foundations are often composed entirely of company executives and employees, not surprising given that the company is generally the primary, if not the sole, source of financial support for the foundation; however, it is possible, and usually advisable, to include independent directors and/or representatives of the local community on the board in order to increase transparency and elicit divergent views on the best way for the company to contribute to the community through the foundation. Many nonprofit corporations, particularly larger organizations engaged in substantial fundraising activities, are implementing corporate governance schemes similar to those found in the private sector. For example, a nonprofit corporation may establish an audit committee to oversee the financial reporting system established and maintained by the corporation and should promulgate a statement of purpose and objectives for the committee. In fact, some states have actually begun requiring nonprofit corporations of a certain size engaging in charitable activities to have an audit committee. Another common governance tool is an executive compensation committee that will oversee compensation for the executive director and other senior managerial staff of the corporation. Once again, it is useful for the board of directors to adopt guidelines for the deliberations of the executive compensation committee. Depending on the situation, the board of directors may also establish governance, nominating and finance committees, particularly when the nonprofit begins to grow and its constituencies demand transparency with respect to the composition of the board, solicitation and use of funds and good governance practices such as conflict-of-interest policies and procedures.

Even though a corporate foundation does not have a pool of shareholders to which the directors owe a fiduciary duty, the directors do have real and significant obligations to every person and group who may be touched by the activities of the foundation (and they also continue to have the fiduciary responsibilities of every director of a nonprofit corporation as provided by statute and case law). As such, the directors must plan on meeting regularly to proactively exercise their oversight responsibilities with respect to the foundation; however, it is to be expected that day-to-day operations of the foundation will be delegated to the executives, managers and employees acting on behalf of the foundation. One person should be designated as the president, CEO or executive director of the foundation and as the foundation grows larger it is recommended that a search be done for a person with experience in the foundation arena with its complex regulations and the special demands associated with community engagement.[79] While it is possible to staff the foundation with personnel that are all compensated, as employees, of the foundation, in many cases the foundation will received support from company employees acting as volunteers. In that situation, care must be taken to ensure that such person keep his or her roles separate in order to avoid issues with respect to liability and self-dealing (see above) and be clear when communicating with outsiders as to whether they are acting as company employees or foundation volunteers.

A mere charitable motive or organizing under a state nonprofit statute is insufficient to secure an exemption from federal and state income taxes, although it may in certain circumstances be a necessary condition. Tax exempt status can only be achieved through a technical application process that requires adherence to detailed federal and state regulations. Under IRC §501(c), there are 26 possible tax exempt categories, each with its own special rules. Most public benefit and religious organizations seek exemption under I.R.C. § 50***l***(c)(3). Financial supporters can take a personal tax deduction by virtue of making a gift or donation to the entity only for contributions to organizations exempt under I.R.C. § 501(c)(3). For most other exempt organization classifications, while the organization may gain tax benefits by virtue of its exempt category, contributors to the organization are not entitled to a personal tax deduction unless the contribution is deductible under some other tax rule, such as a business expense deduction.

[79] See Competencies for Chief Executive Officers of Private Foundations (Washington DC: Council on Foundations, 2006).

Organizations applying for tax exempt status must initially consider which of the IRS forms are applicable: Form 1023 is the form generally used by public charities (a shorter version, Form 1023-EZ, is available for smaller organizations).[80]

Maintenance of tax exempt status for a public charity requires continuing satisfaction of the charity's organizational test for obtaining tax exempt status, and satisfaction of several operational tests. At all times an exempt organization must continue to be organized for the purposes for which the exemption was granted. If there is a material change in the organization's character, purpose or method of operation inconsistent with the exemption sought and received in the determination letter, the exemption will no longer apply. In general, most organizations exempt from income tax must file an annual information return (Form 990 or Form 990-EZ) or an annual electronic notice (Form 990-N), depending upon the organization's gross receipts and total assets. Form 990, must be filed by an exempt organization if it has either gross receipts greater than or equal to $1,000,000 or total assets greater than or equal to $2,500,000 at the end of the tax year, consists of an 11-page, 11-part core form that is required to be completed by all organizations that file the Form 990 and which cover, among other things, reports of exempt purpose achievements, governance, management, compensation and financial statements, and up to 16 schedules to be completed by those organizations that satisfy the applicable requirements for each schedule.

While directors of many nonprofit corporations often undertake their duties as volunteers with little or no compensation, they nonetheless are subject to high standards of conduct, including a duty to refrain from engaging transactions which might conflict with the interests of the nonprofit corporation. The IRS has been aggressively promoting and enforcing its requirements with respect to the independence of directors, officers and employees of not-for-profit organizations seeking tax-exempt status. This initiative has its statutory basis in the specific requirements for tax-exempt organizations under multiple statutory provisions that mandate that such organizations be organized and operated in a way that no part of their net earnings inures to the benefit of any private shareholder or individual. Concern about conflicts of interest goes beyond the immediate and important issue of avoiding loss of tax-exempt status to the broader issue of demonstrating to the stakeholders of the organization that its directors and officers recognize and endorse general principles of independence and integrity.

The growing trend in many states is to require nonprofit corporations and other unincorporated associations to prepare annual reports signed by directors and senior officers of the organization that provide information on fundraising activities, uses of funds, governance procedures, compensation and transactions entered into by the association that might raise concerns about conflicts of interest. In addition, directors and other leaders of nonprofit organizations should consider and implement recognized best

[80] Form 1024 is the form generally used by non-charitable organizations such as title-holding corporations; civic leagues and social welfare organizations; labor, agricultural and horticultural organizations; business leagues and chambers of commerce; social and recreation clubs; fraternal benefit societies; benevolent life insurance associations; cemetery companies; and mutual insurance companies.

practices for governance that include an active, independent and qualified governing board supported by adequate resources and training; a competent and engaged CEO/executive director; governing board processes; a clear organizational mission formalized in a written mission statement; a strategic planning and budgeting process; processes for regulatory compliance and risk management, especially with respect to fundraising activities; human resources management processes; community relations processes; and processes relating to disclosure and reporting, conflicts of interest and recordkeeping.

Various states have special registration requirements that might apply to various types of nonprofit corporations. For example, California's Uniform Supervision of Trustees for Charitable Purposes Act ("California Act") imposes various filing, registration and reporting requirements on charitable corporations (other than religious corporations), unincorporated associations, trustees, and other legal entities holding property for charitable purposes. Nonprofit corporations are also required to keep the following as permanent records: minutes of all meetings of its members and board of directors; a record of all actions taken by the members or directors without a meeting; and a record of all actions taken by committees of the board of directors. In addition, the corporation must maintain appropriate accounting records[2] and the corporation or its agent must maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast. Finally, the following records must be kept by a nonprofit corporation at its principal office: charters documents; certain board resolutions and directors' meeting minutes; written communications with members; a list of the names and business addresses of directors and officers; and its most recent annual report delivered to the secretary of state.

Donor Advised Fund

Companies wanting to add more formality to their corporate philanthropy beyond direct giving but which are not yet ready to form a new legal entity as a corporate foundation can create a separate fund (although not a separate legal entity) that is held within an existing public charity, such as a local community foundation or the charitable affiliate of a financial services provider. The company would contribute funds or assets to the public charity that would be allocated to a "donor advised fund" maintained by the public charity, so named because the company or its designee (e.g., the CEO of the company) would retain the right to provide advice or recommendations to the public charity on how grants should be made from the fund and how unused funds should be invested. The donor advised fund is usually named after the company (e.g., "The [name of company] Fund" or "The [name of company] Foundation") and the public charity, as the charitable owner and sponsoring organization of the fund, deducts a small percentage of the fund assets or received contributions as compensation for its services.

Donor advised funds are a relatively simple and inexpensive way for companies to obtain the reputation advantages of a philanthropic foundation and provide companies with the same sort of flexibility from a cash flow and tax deductibility perspective as setting up a corporate foundation as a separate entity (i.e., if the company is having a profitable year it can make a larger tax deductible contribution to the donor advised fund, thus reducing the company's current tax bill, and those contributions can be retained in the fund and used in later years to support continuity in the foundation's programs even if the company itself does not have sufficient funds to done to the donor advised fund in those years). However, the funds are legally a gift to the sponsoring organization and once made are subject to the sponsoring organization's right to make final decisions regarding use of the funds (i.e., the company's opinions are only advisory, although as a practical matter the sponsoring organization will generally act in a manner that is consistent with the company's preferences provided that the mission of the sponsoring organization has been property vetted before the fund was established). In addition, the funds will be subject to all of the internal policies and procedures of the sponsoring organization and IRS rules prohibiting benefits to donors from grants made from a donor advised fund. Another factor to consider is that use of a donor advised fund, even if the fund is named after the foundation, may not provide the company with as much recognition with the ultimate beneficiary, although this may be addressed to some degree by messaging that notifies beneficiaries that the grant they see as coming to them from the charity was "made possible" by the company.

While donor advised funds have traditionally been thought of as investment vehicles for companies since they were first authorized in the early 1990s, recently they have frequently been used by individuals who have become wealthy as a result of public offerings of shares of the companies that they founded and who decide to create their own donor advised funds by contributing securities immediately following the offering when the valuations, and resulting tax deduction, are stunningly high. For example, donor advised funds have been launched by the founders and/or senior executives of Facebook, Netflix, Twitter, Google, WhatsApp and Microsoft. While these launches often were done with great publicity, the actual impact of these commitments has been questioned by some since donor advised funds do not have to report on their activities in the same way as corporate foundations. There is evidence that large grants are being made through these donor advised funds (e.g., donations by Facebook founder Mark Zuckerberg through his donor advised fund to hospitals and schools in the San Francisco Bay Area); however, skeptics have pointed to other situations where stock was contributed at a high valuation but subsequently declined in value, thus reducing the amounts available to charities while allowing the donor to retain the highest tax benefit (another criticism is that the distributions from donor advised funds can be deferred indefinitely at the discretion of the donor).[81]

Legal Considerations

The legal issues associated with the community engagement and investment activities of an organization will depend on the decisions made by the organization regarding the types of contributions that will be made (i.e., cash, in-kind, human resources etc.), the

[81] For further discussion, see D. Gelles, "A Trendy Philanthropic Loophole", New York Times (August 5, 2018), B1.

nature of the projects and activities that will be supported and the specific topical areas of interest. As discussed above, all businesses will need to determine the appropriate legal and organizational structures for their community-focused activities and this often means that a decision will eventually need to be made about whether to form a separate legal entity, owned and controlled by the parent company, through which community investments will be funneled (i.e., a corporate foundation). Other common legal issues arise due to the nature of the business' involvement in the community and would include mitigating potential legal risks associated with employee volunteer programs, sponsoring and/or hosting community events and entering into joint ventures and other types of alliance arrangements with local nonprofit organizations. Specialized legal guidance will be required when businesses get involved in complex and high-regulated areas such as helping to provide financial services for low-wealth and underserved communities, supporting public and private financing of community cultural facilities, participating in community-based efforts to preserve open space while expanding the availability of affordable housing and assisting local courts looking to positively and proactively address juvenile delinquency by providing vocational training and job opportunities.

Charitable Contributions

When businesses engage in philanthropic activities in their communities, such as making cash and/or in-kind contributions to local charities or other nonprofit organizations, they need to establish compliance programs to ensure that their activities conform to applicable laws and regulations and that their contributions are being put to effective use. Due diligence with respect to potential donees has become particularly important as the size and scope of corporate philanthropy has expanded. Many businesses, particularly larger ones, have taken on global issues such as disaster relief, humanitarian crises, health and education and in doing so they have taken to giving to organizations working far away from the communities in which the companies are operating. Another reason that international giving has expanded is the desire of businesses to engage in strategic philanthropy to build their brands and customer loyalty in new markets. As long-distance philanthropy becomes more popular, companies face new challenges in getting to know who will be accepting and using their contributions, particularly since there are more and more "rogue non-profits" operating all over the world and using sophisticated techniques to fraudulently collect and misappropriate donations toward lavish lifestyles of the promoters and even terrorist activities.[82]

Compliance programs for charitable contributions need to incorporate consideration of all applicable laws and regulations pertaining to the initial transfer of funds and other resources to the charitable organization and the capacity of the recipient to effectively use the funds and resources free from financial abuse and mismanagement. Among the

[82] Portions of the discussion in this section are adapted from Regulatory Compliance for Corporate Philanthropy: Why, What, How?, July 28, 2014 http://blog.cybergrants.com/regulatory-compliance-for-corporate-philanthropy-201407.html; and The Importance of Compliant Giving Programs (CyberGrants, 2014)

questions that should be asked and considered before any contribution is approved and completed are the following:

- Is the proposed recipient a duly organized nonprofit organization in good standing under the laws of its jurisdiction of organization based on certificates obtained from the authorized regulator (e.g., the secretary of state or the state attorney general for organizations formed in the US)?
- Is the proposed recipient in compliance with all requirements for tax-exempt status under the regulations applicable to its specific types of activities (e.g., in the US is the recipient a valid and current 501(c)(3) organization or equivalent)?
- Has the proposed recipient and its named directors, officers and principal donors been screened against a comprehensive set of sanctions lists, both domestically and internationally?
- Does the proposed form of the contribution create any issues that might adversely impact the nonprofit/tax status of the entity of the business that will be making the contribution (e.g., foundation status of an affiliate of the main business established to engage in philanthropic activities)?
- Has sufficient information regarding the proposed recipient between collected and analyzed to allow the business to properly report the contribution on tax and other reports?
- Have all internal policies regarding charitable contributions been complied with and has the company's database of established charitable organizations been updated to reflect all new information gathered during the due diligence process?
- If the business will be asking employees to consider donating to the proposed recipient have steps been taken to ensure the recipient has in place adequate security procedures to protect the personal and financial information of donating employees?
- Has sufficient investigation been done of the controlling persons of the proposed recipient to ensure that there are no conflicts of interest involving directors and/or officers of the business?
- If the relationship involves volunteer activities by employees of the business that are endorsed by the business as opposed to cash donations has consideration been given to relevant legal issues?

Establishing a compliance program for corporate philanthropy is not a "one time" activity and provision must be made for ensuring that the group responsible for corporate philanthropy remains current with all relevant laws and regulations. When giving activities extend across foreign borders, attention needs to be paid to continuously changing sanctions screening and watch lists and evolving laws in foreign jurisdictions relating to money transfers, tax filings and data privacy. Fortunately, the burden of carrying out the extensive screening has become more manageable through the availability of technology platforms that corporate philanthropy teams can access to receive reliable support in screening, verification and other aspects of due diligence.

The details of any specific compliance program will be determined by a variety of factors including the amount of the contributions and the number of organizations that the company is willing to support. Choices will depend on the preferences of employees, given that corporate philanthropy is an important way to enhance employee engagement, and whether support will be provided through cash provided by the company or through donations that employee make on their own.

Corporate Volunteer Programs

There is a growing body of evidence that employees who engage in volunteer activities for causes that are important to them with the support of their employers are happier and more loyal; however, employers must bear the legal risks associated with employee volunteering in mind. Two major areas of concern for businesses sponsoring corporate volunteering programs in which their employees will have the opportunity to participate are compliance with federal and state labor laws, especially the federal Fair Labor Standards Act ("FLSA"), and liability for injuries or other damages to employees arising from their engagement in the volunteer activities. The key question under the FLSA is whether the employee's participation is truly "voluntary", which goes to whether the employee gave up his or her non-work time to engage in the volunteer activity without a reasonable expectation of compensation from his or her employer. If it turns out that an employee had no choice about whether or not he or she should participate, was required to engage in the activity during a period that was otherwise inconvenient and was subject to directions from management personnel of his or her employer during the activity, rather than a supervisor from the party holding the volunteering event, failure to compensate the employee will likely expose the employer to liability for violations of minimum wage, overtime and timekeeping requirements. Statutory liability is also a real risk for employers in situations where failure of an employee to participate in a volunteer activity as directed, or "strongly suggested", by the employer leads to some sort of adverse employment action against the employee.

In order to reduce potential problems under the FLSA businesses should implement clear formal policies regarding participation of employees in volunteer programs sponsored or other endorsed by the company. While businesses can, and often do, select specific volunteer activities to support, the policy should allow employees to select the programs and events that are best suited to their schedules and interests. Businesses should also allow the volunteering activities of their employees to be overseen by personnel from the outside charity or other organization conducting the event or activity. In addition, before the employee begins his or her work he or she should sign a date a certificate that includes an acknowledgement that his or her participation is truly voluntary, the location and time of the activity is convenient for him or her and that participation in the activity will not have any impact, favorable or unfavorable, on the employee.

The certificate from employees described above should also be used as an opportunity to attempt to mitigate potential liability for injuries to the employee during the volunteering activity by including a waiver of liability against the employer for any such injuries. However, employers should not rely only on such releases for protection and should take other steps such as inspecting the locations where the volunteer activities will be occurring, seeking and obtaining indemnification from the party conducting the event or activity and checking with insurance carriers to confirm that the company's general liability and workers' compensation insurance policies covers employees participating in corporate volunteer programs.

Events

As part of their initiatives relating to community involvement and development it is likely that businesses will hold events to which community members will be invited. Each event must be considered separately; however, there are certain issues that are fairly common place such as governmental permitting and licensing requirements; contracting for venues and/or equipment to be used in connection with the event; intellectual property issues; insurance, safety and security considerations; providing for access to events; sponsorships; and raising money and/or soliciting in-kind donations in connection with the event. In addition, businesses should consider the impact of the event on the surrounding neighborhoods in the community. For example, failure to consider how noise from the event and/or litter from persons walking to the event might impact the neighbors may trigger legal complaints from neighbors (and even if neighbors don't make formal complaints, upsetting neighbors by hosting events does nothing to improve the "community citizen" profile of the business).[83]

- ***Governmental Permits and Licenses:*** It is obviously important to determine whether any permits or licenses from local governmental authorities are required for the event. The answer depends on several factors including the type of event, the activities that will be taking place, the facilities that will be provided to participants, the impact of the event on surrounding communities and, of course, specific rules that have been adopted by the authorities in the community. Local requirements vary; however, it should be expected that a permit or license will be required to hold an event on public land, set up a temporary structure, serve food and/or alcohol, play live or recorded music, display signs and banners or close a road. Preparation of a risk management plan may be required as a condition to obtaining a permit or license and such a plan is a good idea even if not mandated by local government authorities. Businesses should also notify local transit authorities if it appears that the event will have an adverse impact on access into the area where the event is being held.
- ***Hiring Venue and Equipment:*** While businesses may use their own facilities and/or equipment in connection with events, they often enter into contracts with outside parties for the venue at which the event will take place and/or equipment that will be needed for the activities to be conducted during the event. Contract terms will vary; however, businesses need to be concerned about insurance requirements, indemnification obligations, the consequences of damages to the venue or equipment and the company's right to terminate the contract in the event is cancelled.
- ***Copyright, Trademarks, Marketing and Promotions:*** When recorded music or music videos will be played at an event it may be necessary to obtain a license from the performer or the performer's agent and, if necessary, pay a license fee. When the

[83] The list of issues in this section is adapted from several sources including Legal Issues to Consider When Holding Events (Melbourne: Justice Connect, October 2014).

event includes live performers, the contract with those performances should include representations from them that they have all the requisite licenses for the works they will be performing. Licenses or other permissions may also be required to use photos, videos, text and trademarks of others in connection with the marketing and promotion of the event and/or the presentations made during the course of the event. These items might be used in a number of different ways including on websites discussing the event brochure, newsletters, pamphlets or posters. If videos or photos will be taken during the event with the intent of distributing them publicly during or after the event signed permissions and releases should be obtained from attendees appearing in such videos or photos.

- ***Event Insurance:*** A number of the legal issues surrounding a community event are based on mitigating potential liabilities to the business as a result of its decision to host and sponsor an event, either at its own facilities or at another venue, and invite members of the community to attend. As such, the business needs to be sure that it has adequate insurance coverage for the event, either under an existing policy or by purchasing additional policies or riders that cover the particular event. For events held on property and/or in facilities owned by outside parties those parties will require proof of insurance that extends to them. Additional insurance will often be required depending on the particular activity including product liability insurance if food or other products will be sold to the public at the event; personal accident insurance for employee and non-employee volunteers working at the event; and workers compensation insurance for employees working at the event during their paid time. If independent contractors will be used to conduct the event the agreements with those contractors should describe the insurance coverage they are expected to have in place to address liabilities that may arise from the services they provide during the event, such as putting up and maintaining a temporary structure to which attendees have access during the event (e.g., if a member of the public attends the event and is injured due to the actions of an independent contractor and sues the business the contractor's insurance coverage should extend to any damages and costs incurred by the business).
- ***Safety and Security:*** Safety and security are paramount considerations for businesses hosting or sponsoring a community event. Businesses have legal responsibilities to fulfill their duty of care to participants and this means taking reasonable precautions to be sure that participants are kept safe from injuries that might occur from participating in activities at the event and secure from dangers from outsiders encroaching on the event. The duties of safety and security extend to personal property that the business can reasonably foresee will be brought to the event, although businesses can and should impose restrictions on participants bringing certain items to the event. Businesses should consider engaging privacy security contractors to assist with the event and informing the local police and other persons or groups that might be needed to provide emergency services (e.g., qualified first aid providers). Unfortunately, given the times that we are living, it is often necessary to screen workers and participants upon entry to the event to ensure that they are not bring banned items into the venue.
- ***Accessibility:*** One of the key tenets of both legal and voluntary standards relating to community involvement for businesses is free and open access without discrimination

against any person or group based on physical impairments, age, sex or sexual orientation, race, religious beliefs or other attributes. Hosting or sponsoring a public event is like any other actions by a business, including sales of goods and services, and must be done in a manner that complies with letter and spirit of equal opportunity laws. Community involvement requires engagement and engagement comes from making it easy for everyone in the community to come together. Businesses must also be sure that they take reasonable steps to ensure that persons with physical disabilities are able to access and enjoy the events (e.g., providing preferred parking for disabled attendees; wheelchairs inside the venue and sign language translators when speeches are given).

- ***Sponsorships:*** Businesses often collaborate with other organizations that are willing to provide some sort of support for the event as sponsors. The terms of any sponsorship arrangement should be set out in a contract between the business and the sponsor and will generally cover the contribution of the sponsor, which may be cash and/or other resources, and what the sponsor expected to receive in return in terms of publicity and perhaps access to a list of persons who attended the event (if those persons have consented to the disclosure of their personal information). Sponsorship agreements should also address sharing of liabilities associated with the event and will thus include insurance and indemnification provisions.
- ***Fundraising:*** Businesses may host and/or sponsor community events at which community members are asked to make cash contributions to a local charity that the business has selected for support. In those situations, it is important to consider whether the business, as well as the supported charity, has any specific obligations under federal, state or local fundraising laws or regulations (e.g., must the business itself register as a "fundraiser"). It is also necessary to provide for adequate recordkeeping, including receipts, of donations made on site during the event.

Sponsorships and Collaborations

A company, either directly or through its sponsored corporate foundation, may enter into a collaboration agreement with several local nonprofit organizations to develop and implement a project intended to provide objective benefits to a target group within the local community where all the parties are operating. For example, the collaborators may assist individuals currently living at or below the poverty line to provide them with vocational and on-the-job training as well as assistance with job search, placement and retention services. The project may also provide support services to beneficiaries including domestic violence, addiction/recovery, mental and physical health, childcare and other family services. The collaboration agreement should include clear and objective goals for the program, such as serving a specified minimum number of beneficiaries, and should describe the specific responsibilities of each of the parties collaborating on the project, it usually being the case that each party brings its own unique set of skills and resources to contribute to the broader program (e.g., one party may serve as project manager while other parties provide specific services such as vocational training, daycare, health services, internships etc., the provision of which should be detailed in separate agreements between the project manager on behalf of the collaborative and the specific provider). The agreement should also include duties for all parties including compliance with laws, attending regular meetings and maintaining insurance covering their activities in connection with the project. Governance and dispute resolution should be addressed in the agreement and the parties should commit to developing and continuously reviewing a strategic plan related to the project.

Another way that companies can work to bring community stakeholders together is through the formation of a "collaborative" group with formal rules and guidelines to facilitate ongoing discussion of projects that can help the community and the ways in which each of the members of the collaborative can support those projects financially or otherwise. The collaborative would have separate legal status; however, provision would be made for rules to be followed for admission to the collaborative and deliberations among and decisions by collaborative members. In addition, many such collaborative groups do receive and disburse funds and when such activities are anticipated it will be necessary for the members to provide for one of them to serve as the fiscal sponsor of the collaborative to handle the funds, establish a bank account and provide reports on how funds have been received (e.g., grants, revenues from events sponsored by the collaborative, donations from collaborative members, donations from community members etc.) and used (this should be accomplished through a separate fiscal sponsorship agreement). The collaborative may even have its own personnel to handle day-to-day activities under the direction of the governing group of the collaborative provided that sufficient funds are available (and may also rely on the support of volunteers from collaborative members or the community itself).

In addition to their voting rights, members of the collaborative may have opportunities to receive funding from the collaborative for services rendered in connection with community projects sponsored by the collaborative; however, such services and related compensation should be addressed in formal contracts approved by members unaffiliated with the subject matter of the contract. Collaborative members should be required to maintain insurance covering their activities in relation to the collaborative and inform their constituencies about the collaborative and its activities as a means for generating project ideas. Collaborative members may be required to provide funding to the collaborative for projects in order for them to maintain full voting status (community groups unable or unwilling to commit to funding may nonetheless be involved with the collaborative as non-voting "associated" members). A collaborative arrangement of this type can be challenging, and the parties often provide for a finite term, say five years out, to ensure that there is a date upon which the parties seriously consider whether to continue with the arrangement, perhaps with a new and different mission and strategic plan, or terminate the venture.

Since in many cases businesses collaborate with other organizations to carry out specific community engagement and investment programs it is important to develop templates of standard agreements that can be used to easily and effectively highlight and resolve the key issues associated with most collaborations. For example, a company may decide to partner with a community nonprofit organization to provide vocational training as part of a larger effort to improve job skills in the community to enhance job opportunities for community members who may be struggling due to lack of technical skills. In that situation the collaborators may enter into an agreement, perhaps in the form of a memorandum of understanding, that covers the size and characteristics of the target population for the programs, the schedule and content of training activities, the availability of volunteers from each of the collaborators to provide mentoring services and any financial assistance that will be provided to support the training activities (i.e., marketing the training sessions, leasing equipment etc.). The agreement should also cover communications between the parties to ensure that representatives meet regularly to coordinate the schedules for the training sessions (i.e., developing a master training calendar) and other matters such as monitoring the impact of the program on the target population and the broader community. Other matters that should be covered in the agreement include rights to intellectual property arising out of the collaboration, duties to maintain insurance and the terms upon which collaborators may perform services for one another (e.g., the company may provide some of its own consultants to the nonprofit organization to build long-term capacity within the organization relating to the curriculum for training programs that the organization may provide in the future outside of the agreement with the company).

Community Consultation Requirements

Before proceeding with any community investment program, particularly one that will involve the development of new structures and/or impacts to the natural habitat in the community, consideration needs to be given to laws, regulations and informal community expectations regarding engagement and consultation with members of the community. Community consultation requirements have long applied to local governments and provide that governmental bodies must consult with the community for a specified minimum period of time in advance of considering and ultimately making decisions regarding a community development project. In many cases, the laws and regulations pertaining to government community engagement mandate the preparation and use of a communications strategy for the new project (and for any material amendment or modification of an existing project). The communications strategy, or plan, should normally include a description of how the impacted community will be drawn into the consultation process, the target groups within the community who need to participate in the consultation process, the potential impact of the project on the community and the methods that will be used to facilitate the consultation process. Schedules, milestones and tools for measuring the level and quality of engagement should also be part of any comprehensive consultation plan created by local governments.[84]

Practices within communities vary so it will be important to seek advice from local experts familiar with any permitting or licensing requirements applicable to community development activities. In most cases even a small project such as making changes to the landscaping around the company’s facility and/or adding more lighting to the parking lot used by customers and employees will require preparation and publication of an “impact report” and a minimum period of “waiting” before proceeding with the project during

[84] Community Engagement Toolkit for Planning (The State of Queensland Australia: Department of Infrastructure, Local Government and Planning, August 2017), 3.

which community members can submit comments on, and raise objections to, the project. Evidence that the company has completed these preliminary steps will need to be presented to the regulatory body responsible for issuing permits or licenses.

A case study of required community engagement prior to an investment/development project comes from federal, state and local efforts to comply with the letter and spirit of the United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP"), which was adopted, following over two decades of deliberation and debate, by a majority of the states in the UN General Assembly in September 2007 (Australia, Canada, New Zealand and the United States were the four states that opposed the UNDRIP at that time; however, all four of them have since reversed the opposition, with the United States being the last to do so in December 2010). The UNDRIP is lengthy; however, the goal was to identify, describe and affirm certain rights believed to be essential for preserve indigenous peoples' identity: the right to live in dignity and maintain and strengthen their own institutions, cultures and traditions; the right to self-determination with respect to their economic, social and cultural development in keeping with their own needs and aspirations; the right to participate in decision-making; the right to lands, territories and resources; and the right to culture.[85]

Governments at all levels have struggled to implement the duties of states laid out in the UNDRIP with respect to free, prior and informed consent, which calls on states to consult with indigenous peoples on legislative and administrative measures affecting them, such as forced relocation, culture, intellectual property, lands, territories and resources, as well as development planning within the state, with a view to obtaining indigenous peoples' free, prior and informed consent. For example, the US, when it finally endorsed the UNDRIP, noted that while it understood the importance of a call for a process of meaningful consultation with tribal leaders, it did not necessarily endorse and accept the notion that agreement of those leaders must be obtained before the actions addressed in those consultations are taken. Clearly companies need to tread carefully and deliberately when considering investment and development projects that will impact indigenous peoples in their communities and must be sure to understand and adhere to any formal legal standards and establish a process on their own that meets or exceeds best practices for corporate social responsibility.[86]

Fair Labor Standards

Many community investment and development activities focus on training and skills development for community members, including students, to improve their opportunities in the local job market and businesses interested in that area need to be mindful of applicable provisions of the FLSA, which has been introduced and discussed above. The FLSA includes extensive requirements between parties in an "employment relationship"

[85] http://www.un.org/esa/socdev/unpfii/documents/faq_drips_en.pdf
[86] For further discussion, see C. Lewis, Corporate Responsibility to Respect the Rights of Minorities and Indigenous Peoples (2012); and Implementing the UN Declaration on the Rights of Indigenous People (Inter-Parliamentary Union, 2014).

relating to minimum wage, overtime pay, record keeping (i.e., personal employee information, wages, hours), and child labor, and businesses need to consider whether or not students receiving vocational training in work settings will be considered employees under the FLSA and thus be entitled to the benefits and rights of employee status under the FLSA. Recognizing that businesses may be reluctant to launch training and internship programs, the federal Departments of Labor and Education developed guidelines that can be followed to properly structure the programs so that participants have access to the protections of the FLSA and businesses have proper and clear guidance as to how the programs should be designed and executed (see, for example, the Statement of Principle relating to vocational exploration, assessment and training programs for students with physical and/or mental disabilities).

Measurement and Assessment

Whenever a business is involved in a strategic planning exercise provision must be made for regular and continuous measurement and assessment of performance against the goals and objectives that should have been established early in the planning process. Measurement and assessment of a company's performance with respect to community engagement and investment is not only important to the company, but also to the employees for which community engagement is a valuable motivator, the communities in which the company operates and, of course, the investors that provide a significant amount of the funding that ultimately is transformed into the resources that the company distributes in its community investment programs. Effective community investment also matters to customers and other business partners. Measurement and assessment is also an opportunity for further engagement with community groups and other stakeholders in that part of the assessment process should involve sitting down with partners to discuss how projects have gone and, hopefully, build further trust during those discussions.

Measurement and assessment of community engagement and investment should be conducted as part of the company's broader practice of "social auditing", which has been described as a comprehensive evaluation of the way a company discharges all its responsibilities to shareholders, customers, employees, community and the government. A simple four step process for conducting a social audit would begin with an itemization of all the activities of the company that have a potential social impact and then continue with an explanation of the circumstances leading to these actions or activities, an evaluation of the performance and impact of each of the actions or activities and an examination of the relationship between the goals of the company and those of society to see how each of the actions or activities related to one another.[87] Social audits have two main purposes: an internal evaluation of a company's social responsibility performance and a means for collecting and organizing the information required in order to make public disclosures of a company's social responsibility performance.

The impact of social actions and activities on economic performance is certainly relevant; however, the primary focus of the social audit should be on gaining a better understanding of the company's contributions to and participation in activities that promote the well-being of employees and community members and protect the environment. Categories of information to be collected, evaluated and eventually incorporated into both internal and external reporting on social responsibility should include community involvement (i.e., socially oriented activities that are primarily of benefit to the general public); human resources (i.e., activities directed to the well-being of the employees); physical resources and environmental contribution (i.e., activities directed towards alleviating or preventing environmental deterioration, such as pollution, and actions taken to comply with applicable environmental laws and exceed legal standards in areas such as air quality, water quality etc.); and product or service contribution (i.e., the impact of company's product or service on society including product quality, packaging, advertising, warranty provisions and product safety). When designing the social audit process consideration should be given to the needs of internal stakeholders looking to incorporate the information in the audit into their decision-making processes; however, the design process should also anticipate reporting to key external stakeholders such as financial institutions, stockholders, academic institutions and consultants, governmental bodies, trade unions, political leaders, environmental and social activists and community leaders.[88]

Measurement and assessment of community engagement and investment is also related to reporting on such activities. Companies that following the reporting framework of the Global Reporting Initiative ("GRI") (www.globalreporting.org) will need to be able to describe their managerial approach to the indirect economic impacts of their operations including a discussion of the work undertaken by the organization to understand indirect economic impacts at the national, regional, or local level and an explanation of whether

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[87] Social Responsibilities of Business towards Community, https://accountlearning.com/social-responsibilities-business-towards-community/

[88] Social Audit/Definition/Objectives/Need/Disclosure of Information, https://accountlearning.com/social-audit-definition-objectives-need-disclosure-of-information/

the organization conducted a community needs assessment to determine the need for infrastructure and other services (and, assuming such an assessment was done), a description of the results of the assessment).[89] Specific disclosures required under the GRI framework should address community investments, engagement with local communities and actual and potential negative impacts of the organization's actions on local communities. The reporting framework proposed by the London Benchmarking Group focuses on helping companies better quantify and organize information about their corporate community investment activities and, most importantly, assess and report on the impact of their relationships with communities and how to manage it.[90] Another idea for measuring and assessing community engagement and investment was provided by Willard, who suggested that assessing whether an organization had achieved "fitness" with regard to soliciting and addressing community concerns could be expressed as the proportion of communities potentially impacted by business operations who have ready access to well-functioning concerns mechanisms capable of addressing any issues quickly, fairly and transparently.[91]

[89] GRI 203: Indirect Economic Impacts 2016 (Amsterdam: Global Sustainability Standards Board, 2016), 5.
[90] Reporting on Community Impacts: A survey conducted by the Global Reporting Initiative, the University of Hong Kong and CSR Asia (Amsterdam: Stichting Global Reporting Initiative, 2008), 6.
[91] B. Willard, "Society Wellbeing" in Sustainability ROI Workbook: Building Compelling Business Cases for Sustainability Initiatives (May 2017 Edition) (the Workbook, which is regularly updated, is available for download, along with other information on corporate sustainability projects, at http://sustainabilityadvantage.com/).

About the Author

This chapter was written by Alan S. Gutterman, whose prolific output of practical guidance and tools for legal and financial professionals, managers, entrepreneurs and investors has made him one of the best-selling individual authors in the global legal publishing marketplace. His cornerstone work, *Business Transactions Solution*, is an online-only product available and featured on Thomson Reuters' Westlaw, the world's largest legal content platform, which includes almost 200 book-length modules covering the entire lifecycle of a business. Alan has also authored or edited over 90 books on sustainable entrepreneurship, leadership and management, business law and transactions, international law and business and technology management for a number of publishers including Thomson Reuters, Practical Law, Kluwer, Aspatore, Oxford, Quorum, ABA Press, Aspen, Sweet & Maxwell, Euromoney, Business Expert Press, Harvard Business Publishing, CCH and BNA. Alan is currently a partner of GCA Law Partners LLP in Mountain View CA (www.gcalaw.com) and has extensive experience as a partner and senior counsel with internationally recognized law firms counseling small and large business enterprises in the areas of general corporate and securities matters, venture capital, mergers and acquisitions, international law and transactions, strategic business alliances, technology transfers and intellectual property, and has also held senior management positions with several technology-based businesses including service as the chief legal officer of a leading international distributor of IT products headquartered in Silicon Valley and as the chief operating officer of an emerging broadband media company. He has been an adjunct faculty member at several colleges and universities, including Berkeley Law, Golden Gate University, Hastings College of Law, Santa Clara University and the University of San Francisco, teaching classes on corporate finance, venture capital, corporate governance, Japanese business law and law and economic development. He has also launched and oversees projects relating to sustainable entrepreneurship and ageism. He received his A.B., M.B.A., and J.D. from the University of California at Berkeley, a D.B.A. from Golden Gate University, and a Ph. D. from the University of Cambridge. For more information about Alan and his activities, and the services he provides through GCA Law Partners LLP, please contact him directly at alangutterman@gmail.com, follow him on LinkedIn (https://www.linkedin.com/in/alangutterman/) and visit his website at alangutterman.com.

About the Project

The Sustainable Entrepreneurship Project (www.seproject.org) was launched by Alan Gutterman to teach and support individuals and companies, both startups and mature firms, seeking to create and build sustainable businesses based on purpose, innovation, shared value and respect for people and planet. The Project is a California nonprofit public benefit corporation with tax exempt status under section 501(c)(3) of the Internal Revenue Code dedicated to furthering and promoting sustainable entrepreneurship through education and awareness and supporting entrepreneurs in their efforts to launch and scale innovative sustainable enterprises that will have a material positive environmental or social impact on society as a whole.

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