

World Economic Forum, Gatekeeper Taskforce Submission

United Nations Special Session of the General Assembly Against Corruption

Introduction

The Gatekeeper Taskforce – a joint initiative between the World Economic Forum’s Partnership Against Corruption Initiative (PACI) and Global Future Council on Transparency and Anti-Corruption – appreciates the opportunity to contribute to the first ever United Nations Special session of the General Assembly (UNGASS) against corruption scheduled for June 2021. We applaud this initiative and emphasize the significance of the special session toward the goals of preventing and combating corruption, strengthening international cooperation, and promoting sustainable development worldwide. We also echo the importance of embracing a holistic view of the fight against corruption, in which private sector actors frequently play a key role.

In this contributionⁱ to the UNGASS against corruption, we aim to draw member states’ attention to the role of private sector “gatekeepers” and by doing so, hope to build a cross-sectoral and transnational movement around this linchpin in the market of illicit financial flows.¹ In particular, we encourage member states to consider the ways they can best support uptake and implementation of the below recommended corporate practices, both through the codification of complementary regulatory frameworks as well as public-private partnerships and incentive systems.

The Private Sector Gatekeepers of Illicit Financial Flows

Global scandals, including the so-called “Panama” and “Paradise” Papers and the more recent “FinCEN” leaks, have drawn attention to the essential role of certain professional industries in relation to international money laundering, financial fraud, corruption schemes, and tax evasion. In order to successfully commit and move the proceeds of these corrupt transactions, actors nearly always make use of private sector intermediaries, including, but not limited to, lawyers, accountants, notaries, bankers, real estate agents, luxury goods dealers, and art advisors. Regardless of whether such services are provided knowingly or unknowingly, these industries can open access to financial markets, set up complex company structures, manage shell companies, and otherwise disguise the nature and origin of ill-gotten gains.ⁱⁱ However, this professionally diverse group of service providers, which we will collectively refer to as “gatekeepers,” also possess the ability to interrupt or prevent illicit financial flows by exercising appropriate due diligence when providing their specialized services.ⁱⁱⁱ

¹ “There is no agreed definition of the concept of illicit financial flows (IFFs), but it is generally used to convey three different sources of IFFs: the proceeds of commercial tax evasion, revenues from criminal activities, and public corruption.” Peter Chowla & Tatiana Falcao, *Illicit Financial Flows: Concepts and Scope*, United Nations (Dec. 5, 2016), https://www.un.org/esa/ffd/wp-content/uploads/2017/02/Illicit-financial-flows-conceptual-paper_FfDO-working-paper.pdf. As discussed below, we want to make clear that our definition of “illicit financial flows” does not start and stop with the letter of the law, but rather encompasses such acts regardless of whether they are codified as criminal in a particular jurisdiction.

The Gatekeeper Taskforce brought together experts from the finance, investment, corporate law, accounting, and real estate industries, as well as representatives from leading international and civil society organizations. The Taskforce has worked together toward the goal of developing and launching a “Unifying Framework” of core best practices, which aims to coordinate and harmonize gatekeepers’ response to illicit financial flows across the private sector.

The Unifying Framework

Effectively harnessing gatekeeper potential presents an opportunity to reduce the massive cost of corrupt behavior and capitalize on the efficiency of honest markets. To this end, this “Unifying Framework” provides a set of practices designed to mobilize the three core principles of integrity, transparency, and accountability within and across gatekeeping industries. It is intended to address any transaction which may objectively facilitate money laundering, corruption, financial fraud, tax evasion, and/or criminal or terrorist financing, regardless of whether such acts are codified as criminal in a given jurisdiction. The framework is not meant to be comprehensive, but rather focuses on those areas that are both central to the fight against illicit financial flows and can be applied across all gatekeeper professions. The core best practices include the following:

- Establish Clear, Concrete, and Up-to-Date Anti-Corruption and Anti-Money Laundering Policies;
- Center a Culture of Integrity through Training and Incentives;
- Promote Effective Due Diligence;
- Know with Whom You are Dealing;
- Foster a “Speak-Up” Culture; and
- Mobilize across Gatekeeping Industries.

While these pillars form the basis of the Unifying Framework today, this tool is intended to function as a living document that will develop overtime as relevant parties, industries, and best practices change.

Gatekeeping opportunities may be obvious, but the types of activities that enable the movement or investment of illicit funds may also closely resemble standard day-to-day work for professionals in these industries. Perfectly legal transactions, such as purchasing a home, investing in art, or creating a new corporation for a client, may further illicit and antisocial activities by coating their proceeds with the gloss of legitimacy. Absent proper knowledge, policies, and procedures, it is often difficult for individual professionals to identify, act upon, or report clients or transactions intent on furthering corrupt behavior.

Past attempts to harness gatekeeper potential have often taken a national and/or sector-specific approach.^{iv} However, the diverse array of industries and fragmented regulatory frameworks – both cross-sectorally and transnationally – present challenging barriers to effectively mobilizing these industries as gatekeepers. While some professionals in some countries are highly regulated, others have no affirmative duty to report suspected criminal activity or verify the origin of the assets they handle.^v This patchwork and frequently lackluster approach to regulating professional gatekeepers has come at a high cost – allowing corrupt behavior to distort markets, erode public services, fund criminal networks, waste trillions of dollars annually,^{vi} and destroy the reputation of gatekeepers themselves. These costs are often unevenly distributed, thus exacerbating global economic inequalities. Frequently, illicit funds flow out of developing or middle-income countries and into major financial centers, which, through the assistance of

gatekeepers, provide a financial safe haven far removed from people and places in need of public investment.^{vii}

The Unifying Framework does not replace existing rules or regulations but aims to reinforce the importance of upholding these practices regardless of the present regulatory landscape. The Gatekeeper Taskforce strongly encourages companies and professional associations to embrace and implement these common principles and best practices. Professional associations, in particular, play a pivotal role in facilitating productive cooperation and incentivizing behavioral and cultural change amongst industry actors. Through self-regulation and collective action, we believe that gatekeepers will be able to leverage their power and skills to enhance efficiency and welfare worldwide.

Looking Beyond the UNGASS against Corruption

The mobilization of these foundational gatekeeper best practices across all relevant professionals presents an exciting opportunity to stunt the flow of illicit funds worldwide. The Taskforce is presently conducting stakeholder outreach to gain insight from additional private sector gatekeepers, as well as professional associations, civil society, and state actors in order to build a framework that is practical, applicable, and effective. If you or your organization would like to contribute to this process, please contact [Katja Bechtel](#).

However, to maximize its anti-corruption impact, the Unifying Framework must be paired with in-depth adaptations and guidance at the sector-level and a similar framework for regulators. As to the former, this Taskforce intends to tackle transnational sector-specific guidance. In doing so, we will continue to leverage the insights of industry leaders and welcome the collaboration of interested parties. As to the latter, we urge member states to coordinate and implement unifying measures, as well as robust oversight and enforcement mechanisms. It is also crucial that governments and gatekeeping industries build goodwill and establish avenues for information-sharing, while respecting the particular needs and characteristics of each profession.

Finally, professional associations can propel these efforts by setting behavioral and ethical norms within their industries and by imposing self-regulation, which prioritizes anti-corruption and anti-money laundering practices, even in the absence of government enforcement. Both self-regulation and government regulation can and should function as complementary forces in the pursuit of efficient and honest markets.

It is our hope that the Unifying Framework becomes a benchmark for all gatekeeping professionals, be they regulated or not.

About the Contributors

The Unifying Framework was developed by a cross-sectoral taskforce of industry leaders convened by the World Economic Forum [Partnering Against Corruption Initiative \(PACI\)](#) and [Global Future Council \(GFC\)](#) on Transparency and Anti-Corruption, in conjunction with the GFC's [agenda for business integrity](#). The project also benefitted from the support of the joint World Bank-UNODC [Stolen Asset Recovery Initiative](#).

The Taskforce itself represents leaders in finance, investment, corporate law, and real estate, with the goal of creating a framework by gatekeepers for gatekeepers.

ⁱ Please see a previous contribution to UNGASS [here](#).

ⁱⁱ See, e.g., FATF & Egmont Group, *Concealment of Beneficial Ownership* (July 2018), <https://www.fatf-gafi.org/media/fatf/documents/reports/FATF-Egmont-Concealment-beneficial-ownership.pdf>; Transparency International, *G20 Position Paper: Anti-Money Laundering* (January 2017), <https://www.transparency.org/en/publications/g20-position-paper-anti-money-laundering-2017>; ; Stolen Asset Recovery Initiative (StAR), *The Puppet Masters : How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It*, WORLD BANK GROUP (2011), <https://openknowledge.worldbank.org/bitstream/handle/10986/2363/9780821388945.pdf?sequence=6&isAllowed=y>.

ⁱⁱⁱ Reinier H. Kraakman, *Gatekeepers: The Anatomy of a Third-Party Enforcement Strategy*, 2 J. L. ECON. & ORG., 53, 53-54 (1986).

^{iv} See, e.g., INTERNATIONAL ETHNICS STANDARDS BOARD FOR ACCOUNTANTS, International Code of Ethics for Professional Accountants, <https://www.ethicsboard.org/international-code-ethics-professional-accountants> (last visited Nov. 22, 2020); ABA, *Model Rules of Professional Conduct*, https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/ (last visited Nov. 22, 2020); Association of Professional Art Advisors, *APAA Code of Ethics*, <https://www.artadvisors.org/about/code-of-ethics/> (last visited Nov. 22, 2020).

^v See, e.g., OECD & International Bar Association, *Report of the Task Force on the Role of Lawyers and International Commercial Structures* (2019), <https://www.ibanet.org/Conferences/The-role-of-lawyers-in-international-commercial-structures.aspx>; Transparency International, *Who is Opening the Gates for the Kleptocrats?* (June 11, 2020), <https://www.transparency.org/en/news/who-is-opening-the-gates-for-kleptocrats>.

^{vi} INTERNATIONAL MONETARY FUND, *Corruption: Costs and Mitigating Strategies*, 5 (May 2016), <https://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf>.

^{vii} Financial Secrecy Index, *Introducing the FSI 2020*, TAX JUSTICE NETWORK, <https://fsi.taxjustice.net/en/> (last visited Nov. 22, 2020).