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Key Considerations in Negotiating Impact Bonds in India

1 Adopt the right strategy – funder-first, structure-first or composite approach

- Investment structure is created to suit already identified investors (high cost, complex, time-consuming but flexible, resilient and easier to launch comparatively).
- Only such investors are approached who are compatible with a pre-designed investment structure (limits funding pool and types of funders, but simpler, cost-effective and less time-consuming).
- A composite approach could be used where at least some market-based precedents have been created pertaining to key or most negotiated aspects of Development Impact Bonds (DIBs).
- Having such templates and mandating DIB parties to only make minimal modifications to them could ensure quick closure.

2 Strike a balance – more funds or fewer parties

- To attract investors, investment size should be big enough to ensure transaction costs are acceptable, thereby ensuring reasonable returns. Hence, multiple sources of funds, and several types of investors (for-profit and philanthropy) are needed.
- There is a need to maintain right balance between size of the DIB and the number of parties to ensure that no single party impedes the launch or the implementation of the DIB.

3 Align commercials and timelines

- The finalisation of fund flows and timing may often require multiple iterations, tweaks and negotiations to make it legally compliant and commercially feasible.
- There is a need to prepare for such timelines and take internal approvals accordingly, for instance, to prevent internal funding deadlines (set by the boards of funders) from lapsing.

4 Streamline key legal policies

- In DIB negotiations, funders often have their own globally implemented standards for aspects such as privacy, beneficiary protection and confidentiality.
- Attempts to standardise these items and market precedents make negotiation easier and cost-effective. It will also benefit future transactions.

5 Consider technical cost structuring and legal limitations

- It may seem intuitive to secure multiple costs from multiple funders, but this may create some challenges –
  - o legal limitations for end-use of funds sourced from certain funders.
  - o exit by even a single funder could threaten the stability and continuity of the DIB.
- Hence, it is recommended that a single funder bear the entire cost head or secure such costs from a funder who is not otherwise a risk or an outcome funder to the DIB. This ensures the stability and continuity of the DIB.

Are you looking to navigate Development Impact Bond (DIB) as a potential investor and stakeholder?
You may share your follow-up queries at **bd@trilegal.com** or **website@trilegal.com**