



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

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GF/B23/21
Board Decision

HIGH-LEVEL INDEPENDENT REVIEW PANEL ON FIDUCIARY CONTROLS AND OVERSIGHT MECHANISMS

Purpose:

This paper summarizes for the record the establishment of a High-Level Independent Review Panel on the Global Fund's fiduciary controls and oversight mechanisms. It includes an overview of the establishment, membership, Terms of Reference, timing, process, resources and requirements of the Independent Review Panel.

1. BACKGROUND

1.1 Drawing on findings from audits and investigations that the Office of the Inspector General first presented to the Finance and Audit Committee (FAC) on 19 October 2010, the Associated Press published an article on 23 January 2011 titled “AP Enterprise: Fraud plagues global health fund,” which brought wide media attention to allegations of fraud in Global Fund grants.

1.2 In response to media reports, the Board and the Executive Director conducted a series of email communications. The Executive Director kept the Board informed about the actions and strategy to address the growing media and political attention toward fraud throughout the grant portfolio.

1.3 During an exceptional conference call convened by the Board leadership on 2 February 2011, the Executive Director proposed additional measures to enhance the Global Fund’s fiduciary integrity. The Executive Director and Inspector General delivered a joint update from the Secretariat and the Office of the Inspector General (OIG). Among the measures proposed by the Executive Director was the establishment of an independent review of the Global Fund’s fiduciary-control mechanisms.

1.4 Following the conference call, the Board issued a press release on 4 February 2011 to announce in-place and additional measures to strengthen and enhance financial safeguards. Additionally, the press release announced a parallel plan to establish an independent panel of highly-respected international experts to review, evaluate and recommend financial controls and oversight mechanisms for the Global Fund.

1.5 After further consultation among Board members, the Board Chair and Vice-Chair issued a joint statement on 8 February 2011. The statement reiterated support for the measures and actions taken and planned by the Secretariat to strengthen fraud prevention. Furthermore, the Board Chair and Vice-Chair confirmed the plan to establish an independent high-level panel of international experts to review the Global Fund’s systems to evaluate the strength of fraud-prevention and -mitigation approaches.

1.6 This report provides the Board with information about the establishment, membership, Terms of Reference, timing, process, resources and requirements of the High-Level Independent Review Panel (Panel) on the Global Fund’s fiduciary controls and oversight mechanisms.

2. ESTABLISHMENT OF THE PANEL

2.1 The Board established this Panel between sessions of the Board as a measure to reassure donors and the public that the Global Fund’s systems and procedures to prevent, detect and respond to misuse remain among the most stringent and transparent in comparison to other international financial institutions. The Board charged the Panel with reviewing international best practices, assessing the adequacy of the Global Fund’s structures and policies, and with making recommendations for improvements.

Panel Membership

2.2 The Co-Chairs of the Panel as endorsed by the Board in March 2011 are former President of Botswana Festus Mogae and former U.S. Health and Human Services Secretary Michael O. Leavitt.

2.3 Festus Mogae was President of Botswana from 1998 to 2008. He won the 2008 Ibrahim Prize for Achievement in African Leadership in recognition of his record of good governance as President. Earlier in his career, he held positions at the International Monetary Fund and the Bank of Botswana.

2.4 Michael O. Leavitt served under President George W. Bush as U.S. Secretary of Health and Human Services from 2005 to 2009, and as Administrator of the U.S. Environmental Protection Agency from 2004 to 2005. During his three terms as Governor of Utah, the state received recognition as one of the best-managed U.S. states six times. In his career, he has led U.S. delegations to over 50 countries to negotiate matters related to health, the environment and trade.

2.5 The Co-Chairs selected and the Board endorsed the following to serve as members of the Panel:

- i. Zeinab Bashir El-Bakri, former Vice President for Sector Operations, African Development Bank.
- ii. The Honorable Norbert Hauser, Vice President, Federal Court of Auditors (*Bundesrechnungshof*), Federal Republic of Germany.
- iii. Gabriel Jaramillo, Chairman of the Board, Sovereign Bank and Santander Holdings USA, Inc., and Special Advisor, Office of the Special Envoy for Malaria of the United Nations Secretary-General.
- iv. The Honorable Barry O'Keefe, former Justice, Supreme Court of New South Wales, Australia.
- v. Claude Rubinowicz, Chief Executive, Agency for Public Intangibles of France (*Agence du patrimoine immaterial de l'État*).

2.6 A brief biography for each Panel member follows:

- i. Zeinab Bashir El-Bakri most recently served as Vice President for Sector Operations at the African Development Bank (ADB), where she focused on directing resources to fight poverty and improve governance practices in member countries. Ms. El-Bakri joined the ADB in 1991, and she attained a series of increasingly senior management positions until her appointment as Vice President. Prior to working at the ADB, she was manager of the Women in Development Program at the University of Khartoum, in Sudan. Ms. El-Bakri earned her Bachelor's degree in Sociology and Master's degree in Sociology and Anthropology from the American University in Cairo, Egypt. She also has a Ph.D. in Sociology from the University of Hull, in the United Kingdom.
- ii. The Honorable Norbert Hauser is Vice President of the Federal Court of Auditors (*Bundesrechnungshof*) of the Federal Republic of Germany. Before his appointment to the Court, he served as a Member of the German *Bundestag* from 1998 to 2002, and had a long career in local government in the city of Bonn. Mr. Hauser has served as External Auditor of the International Atomic Energy Agency, Chairman of the Panel of External Auditors of the United Nations and External Auditor of the Organization for the Prohibition of Chemical Weapons. He completed his legal studies in Bonn and Freiburg.
- iii. Gabriel Jaramillo is a Special Advisor to the Office of the Special Envoy for Malaria of the United Nations Secretary-General. Additionally, Mr. Jaramillo was Chief Executive Officer (CEO) and President of Sovereign Bank and Santander Holdings USA, Inc., from January 2009 to early 2011; he remains Non-Executive Chairman of the company. Mr. Jaramillo has over 34 years of leadership experience in the financial sector in the Americas, with Marine Midland Bank, Citibank and Grupo Santander. He was born in Bogotá, Colombia, and graduated from California State University, Fresno, with a Bachelor's degree in Marketing and a Master's degree in Business Administration.
- iv. The Honourable Barry O'Keefe graduated with Honours in Law from the University of Sydney, in Australia. He was appointed Chief Judge of the Commercial Division of the Supreme Court of New South Wales in 1993, where he served until March 2004. He then joined the firm Clayton Utz as a Consultant, where he specialises in commercial and construction law and probity matters. Mr. O'Keefe has been President of the National Trust in Australia since 1991, and Chairman of Interpol's International Group of Experts on Corruption, as well as Chairman of the International Anticorruption Conference. He was the Commissioner of the Independent Commission Against Corruption from 1994 to 1999, President of the New South Wales Bar Association, President of the Local Government Association of New South Wales and the longest-serving Mayor of Mosman.
- v. Claude Rubinowicz was appointed Chief Executive of the Agency for Public Intangibles of France (*Agence du patrimoine immatériel de l'État*) when it was created in May 2007. He is an alumnus of the *École Normale Supérieure* and the *École Nationale d'Administration*, in Paris. He obtained his Ph.D. in Physics from the University of Paris, and pursued his studies under a fellowship from the Department of Physics of Princeton University, in the United States. Mr. Rubinowicz has worked as Senior Advisor and Special Assistant to the French Minister of Economy, Finance and Budget; Senior Executive Vice President in charge of corporate finance worldwide for Crédit Lyonnais; and Inspector General in the French Ministry of Economy, Finance and Industry. He is an adjunct professor at the *Institut d'Études Politiques* de Paris.

Objective & Scope of Work

2.7 The Board requested the Panel to carry out a comprehensive review of the Global Fund's risk-management, financial and fiduciary controls and oversight mechanisms. The Panel will assess how these mechanisms can best contribute to the implementation of the Global Fund's mission to fight the three diseases and support health systems strengthening within the framework of its founding principles. The Panel will review and evaluate the Global Fund's related policies, procedures, practices, control systems, and oversight mechanisms and structures, as outlined in the Terms of Reference contained in Annex 1. The Panel will assess the risk of fraud and misappropriation in the current Global Fund portfolio, and evaluate the systems and controls in place which seek to provide the assurance that Global Fund monies reach beneficiaries and are used for their intended purposes, by examining a representative sample of grants in countries in different risk categories and drawing conclusions and making recommendations from such an analysis, as appropriate. In carrying out its work, the Panel will consult a variety of sources, including existing and in-process OIG reports and audits; the review and analysis of information on grants in countries in addition to those in which the OIG has conducted audits or investigations; and trips by Panel members and support teams to countries. The Panel expects to examine grants to various types of Principal Recipients (public-sector, civil-society and multilateral institutions) in countries that have different profiles of risk and burden.

2.8 The Panel should engage a broad range of the Global Fund's partners, including other multilateral institutions, governments, civil-society organizations, private-sector representatives, the Global Fund Secretariat Executive Management and staff, and the Office of the Inspector General. The Panel will seek to benchmark the Global Fund's approach to best practices against those of other development financing institutions.

2.9 The Panel will assess and make recommendations to strengthen, as appropriate, the following:

- i The six layers of assurance¹ in the Global Fund model and their interactions with each other;
- ii The Global Fund's existing risk-management framework and the appropriate level of risk mitigation (preventative and detective measures), as well as the related cost implications;
- iii The remedial measures related to financial and fiduciary controls put in place or proposed by the Secretariat and the Office of the Inspector General;
- iv The Global Fund's disclosure policies,² including publication and disclosure of the OIG's findings;

¹ The Global Fund describes its six layers of assurances as: 1) the Principal Recipient's internal control mechanisms; 2) the Local Fund Agent's independent in-country verification and oversight mechanism; 3) the annual external independent audit of Principal Recipients and Sub-Recipients; 4) Secretariat monitoring of grant implementation; 5) work of the Office of the Inspector General; and 6) oversight provided by governance organs (the Board and its Committees).

² The full version of the Global Fund's "Documents Policy" is available on the Global Fund website: http://www.theglobalfund.org/documents/policies/Documents_Policy_en.pdf

- v Follow up on audit recommendations by both the Global Fund and implementing partners; and
- vi Any additional work required to provide a clear understanding of the risk of fraud and corruption affecting the portfolio of Global Fund-supported programs.

Timing

2.10 The Panel shall submit a final report to the Board by 15 September 2011, which shall be made jointly available to the public by the Global Fund and the Panel. In addition, the Panel will provide two interim progress updates (1-3 page brief summaries) via e-mail to the Board after the Twenty-Third Board Meeting, and a longer progress report by the end of June 2011.

Process

2.11 The particular methodologies used to conduct the review will consist of desk reviews, stakeholder consultations, as well as field missions to a sample of Global Fund implementer countries. The Panel will be supported by an external professional services firm (or firms) and a group of individual consultants with complementary expertise and experience in development work, health, audit, forensic audit and investigations.

2.12 The Panel has designated a focal point to remain in regular communication and coordination with counterparts in the Global Fund Secretariat and OIG, and to perform outreach to members of the Global Fund's Board, their constituencies and other stakeholders.

2.13 The Panel focal point will submit requests for information, documentation and other administrative matters to the counterparts in the Secretariat and OIG. Focal points in the Secretariat and OIG shall reasonably accommodate the Panel's requests.

2.14 Members of the Panel's support team have already visited the Global Fund Secretariat to conduct preliminary interviews with Fund Portfolio Managers, the Office of the Inspector General and other officials, and to gain a deeper understanding of reforms already under way in the oversight of the Fund's grants. The Panel's support team have also held preliminary meetings with the Local Fund Agents, external auditors to the Fund and the United Nations Development Programme.

2.15 The Panel will hold its first meeting on 10 May 2011, at the Global Fund's headquarters in Geneva, and intends to hold monthly teleconferences in June, July and August before submitting its report.

3. RESOURCES

Resource Considerations

3.1 Resources of approximately US\$ 2.2 million will be required for the Panel's review. These expenses will cover contract costs for the Panel members, the selected external professional services firm(s) and individual consultants that will support the Panel, and travel costs related to the Panel's work.

4. DECISION POINT

4.1 Based on the analysis and discussion provided under heading two above, the following decision point is presented for consideration and approval.

Decision Point 1: High-Level Independent Review Panel

The Board approves the establishment of a High-Level Independent Review Panel on fiduciary controls and oversight mechanisms under the Terms of Reference contained in Annex 1 to the document entitled “High-Level Independent Review Panel on the Fiduciary Controls and Oversight Mechanisms”.

The Board notes that the estimated cost of the High-Level Independent Review Panel is approximately US\$ 2.2 million for consultancy fees and costs associated with travel and meetings. The Board delegates to the FAC to consider and approve the High-Level Independent Review Panel budget within the framework of the 2011 administrative budget review which is scheduled for June 2011.

This document is part of an internal deliberative process of the Global Fund and as such cannot be made public until after the Board meeting.

High-Level Independent Review Panel of Global Fund Fiduciary Controls and Oversight Terms of Reference

Introduction

The Global Fund is a global public/private partnership dedicated to attracting and disbursing additional resources to prevent and treat HIV/AIDS, tuberculosis and malaria. This partnership between governments, civil society, the private sector and affected communities represents a new approach to international health financing. The Global Fund works in close collaboration with other bilateral and multilateral organizations to supplement existing efforts dealing with the three diseases. Since its creation in 2002, the Global Fund has become the dominant multilateral financier of programs to fight AIDS, tuberculosis and malaria, with cumulative approved funding of US\$ 21.7 billion for more than 800 programs in 150 countries.

The Global Fund was founded on a set of principles that are fully described in the Global Fund's Framework Document³ and reaffirmed by the Global Fund Board (the Board) in March and December 2010. These principles guide all Global Fund activity and include, among others:

- Operate as a financial instrument, not an implementing entity.
- Support programs that evolve from national plans and priorities.
- Participatory and multi-stakeholder decision making.
- Make available and leverage additional financial resources.
- Evaluate proposals submitted by countries through an independent review process.
- Operate with transparency and accountability.

The Board is now requesting an independent panel of eminent persons and experts to carry out a comprehensive review of the Global Fund's risk management, financial and fiduciary control and oversight mechanisms. The panel is requested to assess how these mechanisms can best contribute to the implementation of the Global Fund's mission to fight the three diseases and support of health systems strengthening within the framework of its founding principles.

Purpose and scope

In order to provide appropriate assurance to all Global Fund stakeholders on the effectiveness of the Global Fund's fiduciary controls, the Panel will review and evaluate the Global Fund's related policies, procedures, practices, control systems, and oversight mechanisms/structures. The Panel will assess the risk of fraud and misappropriation in the current Global Fund portfolio, and assess the systems and controls in place which seek to provide the assurance that Global Fund monies reach beneficiaries and are used for their intended purposes, by examining a representative sample of grants in countries in different risk categories and drawing conclusions and making recommendations from such an analysis, as appropriate. In carrying out its work, the Panel will consult a variety of sources, including existing and in-process OIG reports and

³ http://www.theglobalfund.org/documents/TGF_Framework.pdf

audits; the review and analysis of information on grants in countries in addition to those in which the OIG has conducted audits or investigations; and trips by Panel members and support staff to countries, .

The Panel will be appointed by and report to the Board of the Global Fund. It is important that the Panel be aware and take into consideration some key on-going processes within the Board and Secretariat to further increase the efficiency and effectiveness of the Global Fund. The findings of the Panel will be incorporated, as appropriate, in this work, including the Global Fund's reform agenda (on-going activities being pursued by the Secretariat and the complementary work of the Board Chair/Vice-Chair-led Comprehensive Reform Working Group) and the development of a five-year strategy.

The Panel should engage with a broad range of the Global Fund's partners, including other multilateral institutions, governments, civil society organizations, private sector representatives, the Global Fund Secretariat Executive Management and staff and the Office of the Inspector General. In undertaking its work, the Panel will also take into consideration relevant best practices, standards and procedures, including those for assessing and mitigating the risk of fraud, of other multilateral financing institutions, while also recognizing the particularities of the Global Fund's unique business model.

The panel may suggest additional areas of inquiry that emerge from its review.

Deliverables

The Panel will assess and make recommendations to strengthen, as appropriate, the following:

1. The six layers of assurance in the GF model, their interactions with each other under the scope of authority and responsibility delegated to/through:
 - a. The Principal Recipients' (PRs) internal control mechanisms;
 - b. The independent, in-country verification and oversight mechanism - Local Fund Agents -(LFA);
 - c. Country Coordinating Mechanisms-(CCM);
 - d. The annual audit undertaken of Principal and Sub Recipients;
 - e. Secretariat monitoring of grant implementation, including the roles and responsibilities of Fund Portfolio Managers, Country Teams and technical advisory teams;
 - f. The work of the Office of the Inspector General (OIG), including a review of the approaches followed and the findings of finalized and on-going audits/investigations, the action taken in response to its work and a comparison of mandates and practices in other multilateral financing institutions; and
 - g. The oversight provided by governance organs (the Finance and Audit Committee, the Board, etc.).
2. The existing risk management framework and the appropriate level of risk mitigation (mix of preventive and detective controls); and the related cost implications, seeking balance between oversight that is effective without being so onerous as to undermine effective implementation;
3. The remedial measures relating to financial and fiduciary controls proposed in the framework of the *Agenda for an Efficient and Effective Global Fund* (September 2010), and any additional measures already put forward by the Secretariat and the Office of the Inspector General;

4. The Global Fund's policies with regard to transparency, including publication and disclosure of the OIG's findings;
5. Follow up on audit recommendations (both OIG and audits of PRs and SRs) by both the Global Fund and implementing partners; and
6. Any additional work required to provide a clear understanding of the risk of fraud and corruption affecting the portfolio of Global Fund supported programs, including the possible role of the Technical Review Panel in evaluating such risks before the approval of grant proposals by the Board.

Time Frame

The Panel will issue a progress report in time for the Twenty Third Board Meeting (11-12 May 2011) that will include (a) the agreed assessment methodology, and work plan, including countries selected for the field missions; and (b) preliminary findings. In addition, the Panel will provide two interim progress updates (1-3 page brief summaries) via email to the Board after the Twenty Third Meeting as well as an interim report by June 30, 2011. The Panel would be expected to submit a final report to the Board by September 15, 2011. The Co-Chairs should also plan to take part in the Twenty Third Board Meeting, along with other panel members, as appropriate, to present the progress reports and consult with the Board on their findings.

Composition of the Panel

The panel should be balanced in composition (with attention to gender and regional representation), and consist of seven highly respected eminent persons and leading international experts that would be appointed by the Global Fund Board. The Panel members would serve in an individual capacity. The Panel members should provide significant expertise in the fields of development, financial and fiduciary control and oversight and fighting fraud and corruption.

Working modalities

The particular methodologies to be used for conducting the assessment will be determined by the Panel, and could include an appropriate mix of desk reviews, stakeholder consultations, as well as field missions to a sample of Global Fund implementer countries, selected based on a clear set of criteria agreed by the Panel. The Panel will be supported by an external professional services firm and/or a group of individual consultants with complementary expertise and experience in development work, including relevant health expertise, audit, forensic audit and investigations. The support may include country visits where the Panel finds this appropriate to get a clear picture of the oversight mechanisms in place to determine the level of risk of misuse of funds. The firm and/ or consultants retained would be determined by the Co-Chairs, and should operate independently of the Secretariat and OIG of the Global Fund. Firms which have been or are currently engaged as Global Fund Local Fund Agents or auditors not deemed independent with respect to the work of the Panel should not be considered for this assignment. In addition, a dedicated group of Global Fund and OIG staff would provide logistics support to the Panel.

The Co-Chairs will define the specific working modalities of the Panel following a first telephone conference to constitute the Panel.

May 6, 2011