

REPORT OF THE ETHICS COMMITTEE

PURPOSE:

This report presents the activities of the Ethics Committee since the Twenty-Second Board Meeting.

PART 1: INTRODUCTION

1.1 The Ethics Committee held two meetings during the year and dealt with ad hoc matters through email correspondence. The first meeting was held in Geneva on 28 February 2011 and was chaired by Karlo Boras (Developing NGOs) with Vice-Chair Dr. Marijke Wijnroks (Point Seven). The second meeting of the Ethics Committee was held by telephone conference call on 14 October 2011.

1.2 This report sets out the highlights and some other issues dealt with by the Ethics Committee during the year. The internal deliberations and some of the decisions of the Ethics Committee are confidential and so to protect that confidentiality this report only contains information which can be made public.

1.3 This report sets out the following information items:

PART 2: Ethics Committee Membership – confirmation of the current membership and details of appointments.

PART 3: Revision to the Declaration of Interest Form.

PART 4: Annual Filing of Declaration of Interest Forms.

PART 5: Revisions to the Whistle-blowing Policies and Procedures.

PART 6: Ethics and Conflict of Interest Guidelines for TRP Members – confirmation of the Ethics Committee’s endorsement of revised Guidelines.

PART 7: Ethics and Conflict of Interest Cases considered by the Committee – brief highlights of certain matters considered by the Committee.

PART 8: Request for a waiver of the requirement of a one-year cooling-off period.

PART 9: Request for approvals of staff secondments.

PART 2: ETHICS COMMITTEE MEMBERSHIP

2.1 In December 2010 the Board approved the appointment of Karlo Boras from the Developing Country NGO constituency as Chair of the Ethics Committee for the period from the date of this decision until the adjournment of the first Board meeting of 2011 (GF/B22/DP17). This term and the terms of all the Committee members and leadership was extended to no later than the end of the last Board meeting of 2011.

2.2 There are currently six members of the Committee, comprised of Karlo Boras, Chair of the Committee (Developing NGOs), Dr. Marijke Wijnroks, Vice-Chair of the Committee (Point Seven), Dr. Brian Brink (Private Foundations), Daniel Rychner (Canada, Germany, Switzerland), Dr. Aishath Shiham (South East Asia) and Hector Sucilla (LAC) .

2.3 It was noted that the current membership of the Ethics Committee has still not reached its required level of 6 members. The Latin America and Caribbean Constituency had proposed Mr. Hector Sucilla as an additional member of the Ethics Committee. In March 2011, the Board approved the appointment of the Latin America and Caribbean Constituency as a member of the Ethics Committee until the adjournment of the Twenty-Third Board Meeting (BP22/EDP13).

PART 3: REVISION TO THE DECLARATION OF INTEREST FORM

3.1 The Ethics and Conflicts of Interest Policy for Global Fund Institutions (the “Ethics Policy”) requires Covered Individuals to submit a Declaration of Interest form each year and update the

information provided in the declaration wherever there is a material change¹. The Covered Individual means a member of the Board of the Fund, an alternate, a member of any committee, task force, the Technical Review Panel, or any other subsidiary body of the Fund, and professional employees of the Secretariat.

3.2 On 28 February 2011, the Ethics Committee agreed that the current Declaration of Interest Form (annexed to the Ethics Policy) needed to be radically overhauled in order to simplify it and make it more relevant to the information required by the Ethics Committee. The Committee members considered and then endorsed a new Declaration of Interest form based on good practice examples used by similar international organizations. A new form was submitted by the Ethics Committee to the Board with a recommendation that the existing Declaration of Interest Form prescribed by the Ethics Policy should be replaced by the draft new form. The Global Fund Board approved the new Declaration of Interest form at the Twenty-Third Board meeting in Geneva (Decision Point GF/B23/DP20) and this form has been used for the annual request for declarations sent out in the month of October.

3.5 The new Declaration of Interest Form has been reduced to two pages (including guidance notes) and asks two questions regarding the declarant's financial interests only. This is in accordance with the definition of conflict of interest as set out in the Ethics Policy and provides a simplified approach to disclosure in the case where no actual or perceived conflict of interest is present. In the event that a conflict of interest does need to be disclosed, then declarants are required to provide information on the conflict for the Ethics Committee to consider how this might be managed in accordance with the Ethics Policy.

3.6 The new form has been translated into Arabic, Chinese, French, Russian and Spanish in order to facilitate the completion and submission of the form and is available on the Global Fund external web-site². However, the English version will prevail and the Declaration of Interest Form should be submitted in English only.

3.7 To increase compliance with the requirement to submit declaration of interest forms by all Covered Individuals, the Ethics Committee has decided to announce the list of covered individuals who did not comply with the policy this year by not submitting Declaration of Interest form. The list will be attached as an Annex to this Ethics Committee Report before the Board meeting; portions of the list referring to the Secretariat, Office of Inspector General and Board will be forwarded to the Executive Director, Inspector General and Chair of the Board respectively, for their attention and follow-up action.

PART 4: ANNUAL FILING OF DECLARATION OF INTEREST FORMS

4.1. The Ethics Official distributed the new Declaration of Interest form and the Ethics Policy to all Covered Individual and requested that they complete and return the form for the time period from 1 October 2010 to 31 October 2011 to the Ethics Official by 14 November 2011. The Ethics Committee will consider any issues arising from the disclosed Declaration of Interest forms.

¹ Paragraph 4.3 of the Ethics Policy provides that “[d]isclosure statements shall be updated annually and whenever there is a material change in the information they contain, and shall be maintained by the Ethics Official and made available for inspection by the Ethics Committee, and, only as deemed appropriate by the Ethics Committee, by the Board. Except as outlined above, these statements shall be maintained confidential.”

² Found at <http://www.theglobalfund.org/en/library/documents/>

PART 5: REVISIONS TO THE WHISTLE-BLOWING POLICIES AND PROCEDURE

5.1 Whistle-blowing allows for safe and effective procedures for the disclosure of misconduct so that appropriate remedial action can be taken. Whilst the Global Fund has had whistle-blower policies and procedures in place for several years, these needed to be reviewed and updated to ensure consistency with good practice.

5.2 Following discussions with the Inspector General and deliberations by the Ethics Committee, it was decided to recommend to the Board that the existing policies should be replaced with one new policy and procedures document which:

- i. Amalgamated the previous policies into one new policy and procedures document;
- ii. Updated the policies by providing non-retaliation provisions to ensure that no action will be taken against a whistle-blower who makes a disclosure in good faith;
- iii. Updated the scope of reportable conduct;
- iv. Updated the details of confidential and anonymous reporting as well as the contact details for making a complaint so that they are consistent with the OIG's procedures (for example, the OIG's alert line reporting details have been incorporated);
- v. Updated the terminology used to describe inappropriate conduct so that it is consistent with the HR Regulations and Disciplinary Procedures – the terms 'misconduct' and 'gross misconduct' have been used; and
- vi. Provided a more readable document for whistle-blowers.

5.3 The Global Fund Board approved the new Whistle-blowing Policy and Procedures at the Twenty-Third Board meeting in Geneva (Decision Point GF/B23/DP19).

PART 6: ETHICS AND CONFLICT OF INTEREST GUIDELINES FOR TRP MEMBERS

6.1 The Ethics Committee encourages ownership of the management of ethical considerations by Board Committees and other governance bodies. Consistent with this approach, the Ethics Committee has endorsed guidelines for the management of potential conflict situations by several of the Global Fund bodies including the Technical Review Panel. Following revisions to its remit under the Eligibility, Counterpart Financing and Prioritization Policy, the leadership of the TRP proposed certain changes to its conflict of interest guidelines for TRP members. In October 2011, the Ethics Committee considered and endorsed these revised Ethics and Conflict of Interest Guidelines for TRP Members and also endorsed new guidelines on the management of conflict of interest in the selection of Technical Review Panel Members.

PART 7: ETHICS AND CONFLICT OF INTEREST CASES CONSIDERED BY THE COMMITTEE

7.1 Since it submitted its last report to the Board in December 2010, the Ethics Committee received several requests for its opinion on ethical issues and potential conflict of interest which were satisfactorily resolved by the Committee.

7.2 One Board member disclosed membership on the board of another institution which benefited directly or indirectly from the Global Fund. Noting that the member of the Board had voluntarily disclosed his potential conflict, the Ethics Committee recommended that the Board member should issue a letter of undertaking to mitigate the conflict of interest disclosed. The letter of undertaking was duly received from the Board member concerned and the Ethics

Committee is satisfied that the potential conflict of interest has been adequately managed in this case.

7.3 The Ethics Committee also made certain recommendations to the Secretariat during the year to establish a Sanctions Panel (as described in in the Sanctions Procedures³) and a Code of Conduct for Recipients. The Committee was disappointed to note that its recommendations are still to be completed although work is ongoing at the Secretariat to bring these forward.

PART 8: A REQUEST FOR A WAIVER OF THE RECRUITMENT OF A ONE-YEAR COOLING-OFF PERIOD

8.1 The Ethics Committee has considered one request in relation to the proposed secondment to the Secretariat. After consideration of the facts, the Ethics Committee has decided that this request amounted to a request for a waiver of the one year “cooling off” period as set out in paragraph 7 of the Ethics and Conflict of Interest Policy.⁴

8.2. Although it was noted that a person did not seek a waiver prior to applying for the position, the Ethics Committee decided to grant a waiver in this case on the condition that the Secretariat provided an adequate action plan to the Ethics Committee which set out how any potential conflict of interest relating to person’s employment with another institution would be managed throughout the secondment.

8.3 In future, the Ethics Committee has determined to take a stricter approach to applications for waivers and suggests that the newly formed Audit and Ethics Committee should adopt a policy of not granting waivers unless the proper procedures, as set out in the Ethics Policy, have been complied with. Waivers should not be granted as a matter of routine and should only be granted were the circumstances are appropriate.

PART 9: STAFF SECONDMENTS

9.1 There were no requests for secondments⁵ or loans⁶ of staff to the Global Fund since the Ethics Committee’s report to the Board in November 2009 apart from the request described in Part 8 above.

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.

³ See <http://www.theglobalfund.org/en/business/>

⁴ Paragraph 7 of the Ethics Policy provides that “[a]ny individual who has served as a Board member, Alternate, a member of a Board Committee, or as Chair or Vice Chair of the Technical Review Panel shall not be eligible for employment by the Global Fund Secretariat until one year following their last date of service in such a position. The Ethics Committee may waive this provision as appropriate. A request for such a waiver must be submitted by the concerned individual to the Ethics Committee before he or she applies for employment by the Secretariat. The Secretariat shall not take action on or accept an application for employment from such an individual unless a waiver has been granted by the Ethics Committee.”

⁵ Secondment is a temporary transfer of an employee from their regular organization to another organization, with the seconded person following the rules and procedures of the receiving organization.

⁶ A reimbursable loan is a temporary transfer of an employee from their regular organization to another organization, with the person on reimbursable loan following the rules and procedures of the lending organization.