

Thirty-Third Board Meeting

Ethics and Integrity Initiative:

Second Stage Proposals

GF/B33/15 – Revision 2
Board Decision

PURPOSE: This paper presents key deliverables associated with the ‘Second Stage’ of the Ethics and Integrity Initiative, which are recommended by the AEC for adoption by the Board. These materials are (i) the Code of Ethical Conduct for Governance Officials; and (ii) a Terms of Reference of the Ethics Officer. In addition, a Guidance Document on Ethical Roles and Responsibilities for Global Fund Governance Officials is presented for information here as an indicative draft.

I. Decision Point

1. Based on the rationale described below, the following decision points are recommended to the Board:

Decision Point: GF/B33/DP09: Ethics and Integrity: Reporting and Location Arrangements for the Ethics Officer

- 1. The Board approves a reporting arrangement for the Ethics Officer as follows:**
 - a. The Ethics Officer will report on its activities directly to the Board through the Committee responsible for ethics matters (the “Committee”).**
 - b. The Ethics Officer will provide regular advice and support:**
 - a. To the Executive Director on ethical matters pertaining to the Secretariat’s activities, including issues related to grant recipients, CCMs, third-party providers (e.g., LFAs and suppliers) and staff. Based on the Ethics Officer’s advice, the Executive Director will determine and implement appropriate remedial actions.**
 - b. To the Committee on all other ethical matters not included in paragraph 1(b)(i) above. Based on the Ethics Officer’s advice, the Committee will determine appropriate remedial actions.**
 - c. The Ethics Officer will be located within the Office of the Inspector General for administrative purposes only.**

Decision Point: GF/B33/DP10: Ethics and Integrity: Second Stage Policy Proposals

- 1. The Board acknowledges the Audit and Ethics Committee's second stage policy proposals as set forth in document GF/B33/15 – Revision 2.**
- 2. Accordingly, the Board:**
 - a. Approves the Code of Ethical Conduct for Governance Officials contained in Annex A to GF/B33/15 – Revision 2; and**
 - b. Notes that the Code of Ethical Conduct for Governance Officials will be reviewed following appointment of the Ethics Officer. This review will be conducted by the Board Leadership in collaboration with the Committee responsible for ethics matters (the “Committee”). The findings of the review will be presented to the Board for discussion and potential revisions to the Code of Ethical Conduct as applicable.**
- 3. In addition, the Board:**
 - a. Notes the Board's decision to approve the reporting arrangements for the Ethics Officer described in GF/B33/DP09;**
 - b. Endorses, in principle, the Terms of Reference of the Ethics Officer contained in Annex B to GF/B33/15 – Revision 2; and**
 - c. Requests that the Terms of Reference of the Ethics Officer be further developed by the Board Leadership in collaboration with the Committee, with the support of the Office of the Inspector General, through a comprehensive consultation process and submitted to the Board through the Committee for approval by June 2015.**
- 4. Following approval by the Board of the Terms of Reference of the Ethics Officer in June 2015, the recruitment process will be launched.**

II. Relevant Past Decisions

2. Pursuant to the Governance Plan for Impact as approved at the Thirty-Second Board Meeting,¹ the following summary of relevant past decision points is submitted to contextualize the decision point proposed in Section I above.

¹ GF/B32/DP05: Approval of the Governance Plan for Impact as set forth in document GF/B32/08 Revision 2.

Relevant past Decision Point	Summary and Impact
GF/B32/DPO9: Ethics and Integrity Initiative: First Stage Policy Proposals.²	At the Thirty-Second Board Meeting, the Board adopted the Ethics and Integrity Framework and the proposal for creation of a dedicated and independent ethics function. Based on those foundational decisions, the Board requested the Audit and Ethics Committee to develop second-level policies and systems for Board adoption. These ‘Second Stage’ deliverables consist of (i) the Governance Official Code of Ethical Conduct for Governance Officials; and (ii) Terms of Reference of the Ethics Officer.

III. Consequential Actions following the Proposed Board Decision

3. The Board Leadership in collaboration with the Audit and Ethics Committee and the support of the OIG will undertake a comprehensive consultation process and further develop the Ethics Officer Terms of Reference for presentation to the Board for approval in June 2015.
4. Following proposed adoption of the Terms of Reference of the Ethics Officer, the Audit and Ethics Committee (AEC) will engage with the Finance and Operational Performance Committee (FOPC) to determine the budgetary implications of establishment of this function.
5. The Board will receive an update at its Thirty-Fourth Meeting regarding (i) the progress achieved in appointing the Ethics Officer; and (ii) the implementation of the proposed Code of Ethical Conduct for Governance Officials.

IV. Executive Summary

6. The strength of the Global Fund is contained in its values, of which ethics and integrity are integral. As a reflection of this point, the Board Chair and Vice-Chair have committed to the development of the “full and comprehensive integration of ethical principles in the functioning of the Global Fund including the Board.”³ At the Thirty-Second Board Meeting, the Board took important steps towards this goal, with the adoption of the Ethics and Integrity Framework and establishment of a dedicated ethics function.
7. Following these Board decisions, an extensive consultative process was undertaken with Board constituencies regarding important ‘Second Stage’ deliverables: the Code of Ethical Conduct for Governance Officials (the “Governance Official Code”) and the Terms of Reference of the Ethics Officer (the “Ethics Officer TOR”). Based on constituency consultations, the Governance Official Code has been significantly revised from the indicative draft presented at the Thirty-Second Board Meeting, in a way that is adapted to the dual representative responsibilities of governance officials. Through constituency input, the definition of conflict was tailored further, with a focus on personal or financial interests. In addition, the revised Governance Official Code reflects the fact that within the Global Fund’s stakeholder model, the presence of a conflict often turns on the surrounding context.

² <http://www.theglobalfund.org/Knowledge/Decisions/GF/B32/DPO9/>

³ Communication by Board Chair and Vice-Chair to Board Members, 1 August 2013.

8. At the overall level, rather than being prescriptive, the Governance Official Code emphasizes the general obligations that flow from the core ethical values of integrity, duty of care, accountability, dignity and respect.

9. The Ethics Officer TOR reflect an overarching goal of fully embedding ethics and integrity into operations, including compliance monitoring and consequence management. Consequently, the Ethics Officer's remit encompasses both the Global Fund and the activities it finances, which include the activities of grant implementers, CCMs and third-party providers (e.g., LFAs, suppliers). The Ethics Officer's reporting arrangement was developed with reference to this broad mandate, which includes activities at both the governance and operational levels. This model, which received a large majority support from all consulted constituencies, involves reporting to the Board through the AEC, as today. Based on consultations with constituencies at the Board Meeting, it is now proposed that the Ethics Officer will depend administratively on Office of the Inspector General. At the same time, the Ethics Officer TOR stipulate that the Ethics Officer provides advice and support to the Executive Director on ethics matters pertaining to Secretariat activities. To ensure this structuration does not interfere with the Executive Director's authority over all Secretariat activities, the Ethics Officer TOR also make clear that the Executive Director has the responsibility for determining and implementing remedial actions for ethics issues pertaining to operations.

10. Following proposed Board adoption of these Second Stage proposals, the Ethics and Integrity Initiative will move to its third stage, involving development of mechanisms to strengthen the integration of ethics and integrity within Global Fund operations, particularly at the grant level.

V. Background

11. Ethical conduct is a hallmark of the Global Fund, and it applies to all those involved in the operation and governance of the organization. As a reflection of the importance of ethics to the institution, the Board adopted at its Thirty-Second Board Meeting the Ethics and Integrity Framework and the proposal for creation of a dedicated and independent ethics function. Based on those foundational decisions, the Board also requested the Audit and Ethics Committee (AEC) to develop second-level policies and systems for Board adoption. These 'Second Stage' deliverables consist of (i) the Governance Official Code; and (ii) the Ethics Officer TOR.

12. This paper presents the AEC's recommendation of these key second-level policies and systems. The consultative process leading to development of the Governance Official Code and Ethics Officer TOR is also described, along with the major elements of each.

13. The Governance Official Code and Ethics Officer TOR are enclosed for Board review and proposed adoption as detailed in the two decision points presented above. In addition, enclosed for Board information (rather than adoption) is a draft Guidance Document on Ethical Roles and Responsibilities for Global Fund Governance Officials, which is at this stage a work in progress. This indicative draft document, which was developed under the oversight of the Ethics Steering Committee, consisting of Secretariat/OIG senior management and the AEC's independent ethics expert, and chaired by the AEC Vice-Chair. This Guidance Document will ultimately be refined by the Ethics Officer, with input particularly from Board members, as a training reference for use alongside the Governance Official Code.

VI. Process undertaken for Development of the Governance Official Code and Ethics Officer TOR

14. In order to advance development of the Governance Official Code, an indicative draft was presented for discussion at the Board's November 2014 Retreat. The Governance Official Code discussed at the Board Retreat was prepared by the Ethics Steering Committee and reviewed by the AEC at its Tenth Meeting in October 2014. While the Board expressed support for the principles laid out in that document, following discussion and reflection, it was agreed that further consultation was needed regarding (i) the nature and extent of Board Member obligations towards the Global Fund, and how to balance those with constituency obligations; and (ii) the concept of conflict of interest within the Global Fund's stakeholder-based governance model.

15. To address these issues, an extensive consultation process with Board constituencies was undertaken. All Board constituencies were invited to participate in interviews to both explore the ethical obligations and expectations of Board Members, and to obtain input regarding the operational and reporting modalities of the dedicated ethics function. In addition to these interviews, which were conducted with fourteen constituencies, formal consultation was sought with the Board Leadership, the Inspector General and the Executive Director.

16. Based on these consultations, a revised Governance Official Code and Ethics Officer TOR were developed by an independent expert consultant, who previously served as Ethics Advisor at UNESCO. This work was overseen by the Ethics Steering Committee. In addition, the materials received review and comment from the Board Leadership, and their development was informed through a benchmarking analysis of the practices of peer institutions in this area. These materials were subsequently presented to the AEC for review at its Eleventh Meeting and, following deliberation, the AEC unanimously agreed to propose the materials to the Board for adoption.

VII. The Second Stage Deliverables

01 The Governance Official Code

17. While the Global Fund has established Codes of Conduct for staff, grant recipients and suppliers, it has not established a similar code for Board/Committee members. As such, there is not presently a policy describing the standards of behavior expected of governance officials, or one describing procedures for addressing ethical misconduct. This gap is particularly noticeable owing to the fact that governance officials have a heightened responsibility to exhibit ethical behavior, given the example they set for the organization.

18. Within the Global Fund's unique governance model, Board and Committee Members hold responsibilities both towards their respective constituencies and the Global Fund itself. As such, a major emphasis of the Board constituency consultations was in developing a Governance Official Code that is adapted to the dual representative role of governance officials. Based on Board consultations, the need for such a tailored approach is particularly required in defining (i) the obligation to act in the Global Fund's best interest; and, on a related note, (ii) conflict of interest.

19. The Global Fund's core governance documents make clear that governance officials are obligated to act in the organization's best interests. For example, the Bylaws state that "subject to their respective representative roles, Board Members shall act in good faith in the best interests of the Global Fund in furtherance of its purpose."⁴ During the consultation process, constituency representatives

⁴ Bylaws, Section 7.2, paragraph 3.

acknowledged this general obligation. However, it was noted that further guidance was needed regarding the nature of the obligation, and how it can co-exist with constituency responsibilities. Through these discussions, constituencies generally understood their obligations in this regard as acting in a way that is aligned with and serves the Global Fund's overall mission, objectives, priorities and values. It was noted by several constituencies that in order to achieve this goal, a balancing is required. That is, in order to act in the Global Fund's best interest, it is necessary to demonstrate flexibility with respect to constituency positions and openness to the views of others. These principles are therefore reflected within the Governance Official Code.

20. Constituencies also emphasized the need for a tailored approach in defining conflicts of interest. Because of the Global Fund's stakeholder structure, the majority of representatives suggested that Board Members have an 'interest' in all Board matters. The issue therefore was in drawing an appropriate line, and in this regard many constituencies stated that the definition of conflict should not be unduly broad. When asked to suggest a line, most representatives referred to situations involving a personal or financial interest in a governance matter.

21. Based on constituency input, the definition of conflict contained in the Governance Official Code was tailored further, with a focus on personal or financial interests. In addition, the revised Governance Official Code reflects the fact that within the Global Fund's stakeholder model, the presence of a conflict often turns on the surrounding context. Consequently, the guidance contained in the Governance Official Code highlights that governance officials should demonstrate transparency regarding their interests by disclosing them to the Ethics Officer.

22. At the overall level, rather than being prescriptive, the Governance Official Code emphasizes the general obligations that flow from the core ethical values of integrity, duty of care, accountability, and dignity and respect.

02 Terms of Reference of the Ethics Officer

23. The Ethics Officer TOR presented by the AEC for Board adoption reflect an overarching goal of fully embedding ethics and integrity into operations, including compliance monitoring and consequence management. Consequently, the Ethics Officer's mandate is not limited to 'internal' activities. Instead, the remit encompasses both the Global Fund and the activities it finances, which includes the activities of grant implementers, CCMs and third-party providers (e.g., LFAs, suppliers). In this way, the Global Fund's ethics function represents an innovation in the field.

24. Another innovative aspect of the ethics function is in its inclusion of activities at the governance level. That is, by contrast to other peer institutions, a core responsibility of the Global Fund Ethics Officer is in advising on ethics matters pertaining to Board/Committee Members. This mandate, which is particularly important given the complex conflict of interest issues that arise at the governance level, has implications in determining the appropriate reporting line. That is, the positioning should grant the Ethics Officer the appropriate authority to provide advice at the Board level; at the same time, it should reflect the integration of the Ethics Officer into operations.

25. The reporting arrangement reflects the model presented during the Board constituency consultations, which received a large majority support from all consulted constituencies. The model involves reporting to the Board through the AEC, as today. Following consultation with constituencies at the Board Meeting, it is now proposed that the Ethics Officer will depend administratively on the Office of the Inspector General. At the same time, the Ethics Officer TOR stipulate that the Ethics Officer provides advice and support to the Executive Director on ethics matters pertaining to Secretariat activities. To ensure this structuration does not interfere with the Executive Director's authority over all Secretariat activities, the Ethics Officer TOR also make clear that the Executive Director has the

responsibility for determining and implementing remedial actions for ethics issues pertaining to operations.

VIII. Recommendation

26. A strong ethics and integrity program engenders stakeholder trust in the Global Fund, and moreover safeguards resources dedicated to health through the creation of an integrated compliance and anti-corruption program, supported by communication, monitoring and oversight. The Code and Ethics Officer TOR represent major pillars of such a program. Through proposed adoption of the Code, the Global Fund will establish the ethical obligations of its governance officials, and highlight their elevated ethical responsibilities as stewards of the organization. By adopting the Ethics Officer TOR, anticipated in June 2015, the Global Fund will establish a mechanism for both embedding ethics into all levels of the Global Fund and bolstering the Global Fund's compliance with the values it espouses.

27. The success of the Ethics & Integrity Initiative turns on its successful implementation, involving collaboration across all stakeholders. Following proposed adoption of these 'Second Stage' proposals, the Initiative will move to its third stage, involving development of mechanisms to strengthen the integration of ethics and integrity within Global Fund operations, particularly at the grant level.

Code of Ethical Conduct
for
Governance Officials

Principles

1. Ethical conduct is a hallmark of the Global Fund, and applies to all those involved in the operation and governance of the organization. Consequently, those involved in the governance of the Global Fund have a greater obligation to embody the organization's core ethical values; as primary representatives of the Global Fund, they set an example for the rest of the organization. This obligation applies even more strongly to Board and Committee Leadership, who are responsible for ensuring their respective bodies sustain high standards of ethical behaviour.

2. This Code of Ethical Conduct for Global Fund Governance Officials (the "Code") is applicable to Board and Committee Members, Board Alternates, Focal Points and delegation members at Board Meetings (together, "Governance Officials"). This Code describes the ethical obligations of Governance Officials, along with the process for administration and enforcement of this Code.

Core Ethical Values and Expected Conduct

3. The Global Fund Board has four core ethical values:

a. Integrity

Integrity applies to the Global Fund's decision-making processes. Working with integrity involves demonstrating transparency, impartiality, fairness and truthfulness. In order to demonstrate integrity, all individuals entrusted with Global Fund resources must act without bias. As part of this responsibility, all Governance Officials are required to demonstrate full transparency regarding interests that could give rise to actual, perceived or potential conflicts of interest.

A conflict of interest occurs when a Governance Official has a competing interest, such as a personal or financial interest, which could have a real, perceived or potential effect on his/her ability to act with the best interests of the Global Fund.

Determining whether a conflict of interest exists often depends on the context. However, conflicts of interest, particularly at the Board or Committee level, can create the perception that the Global Fund's decisions are biased or even corrupt.

Governance Officials are expected to demonstrate integrity. This requires Governance Officials to:

- Submit on an annual basis a completed Declaration of Interest Form to the Ethics Officer,¹ and also inform the Ethics Officer of any subsequent events that could possibly create a real, perceived or potential conflict of interest;
- Inform the Ethics Officer in situations where their professionally-affiliated organization could be affected financially by Global Fund governance deliberations or decision-making;

¹ In the case of Board delegation members, such individuals must submit a completed Declaration of Interest Form prior to attendance at a Board Meeting.

- Inform the Ethics Officer if Global Fund governance deliberations or decision-making could directly affect their own personal or financial interests;
- Inform the Ethics Officer if involved in a situation that might be adverse to the Global Fund, such as a legal action against the Global Fund or its grant recipients;
- Actively discourage giving or receiving of gifts or hospitality related to their position with the Global Fund, except for those of nominal value;
- Declare such gifts and/or hospitality in writing to the Ethics Officer immediately after their receipt if it cannot be avoided; and
- Comply with mitigating actions determined by the Ethics Officer and/or the Board Committee responsible for overseeing the ethical behavior of the Global Fund and its operations (the “Committee”)² in response to a real, perceived or potential conflict of interest.

b. Duty of Care

The duty of care represents the obligation for Governance Officials to operate in the best interests of the Global Fund. This requires Governance Officials to perform their responsibilities in a way that is aligned with and serves the Global Fund’s mission, objectives, priorities and values. However, a Governance Official’s advocacy for policy changes to benefit populations affected by any of the three diseases or to address health or human rights issues does not reflect a conflict of interest if done (i) without any personal or financial interests at stake for themselves or their organizations and (ii) in a way that is framed by the Global Fund’s best interests. For Board and Committee Members, acting in the Global Fund’s best interest is a critical part of their fiduciary responsibility as stewards of Global Fund resources, and their accountability over the use of those resources.

While Governance Officials’ responsibilities to constituencies are to be respected, they are ultimately obligated to work in the best interests of the Global Fund and to seek advice from the Ethics Officer where the constituency requirements are in real or perceived conflict with the interests of the Global Fund. Governance Officials are expected to act with an understanding that the Global Fund’s direction is shaped by incorporating and balancing varying constituency interests.

Governance Officials are expected to demonstrate duty of care. This requires Governance Officials to:

- Act in the best interests of the Global Fund when participating in decision-making;
- Not intimidate or exert undue pressure on Secretariat or Office of the Inspector General (OIG) staff, advisory body members, implementing partners or other Governance Officials to influence policy development, or financial, operational or administrative decisions;

² As of the date of this policy, the Audit and Ethics Committee is the relevant Board Committee for reviewing and addressing real, perceived or potential conflicts of interest.

- Not abuse one's position with the Global Fund to advance personal interests, financial or otherwise; and
- Neither support nor create bias in Global Fund procurement and employment processes so as to benefit particular suppliers or individuals.

c. Accountability

Accountability is taking responsibility for one's conduct and decisions. All Governance Officials are accountable to the Global Fund. In addition; they share accountability to all Global Fund constituencies, including those affected by the diseases, for the achievement of the organization's vision, which is a world free of the burden of HIV/AIDS, tuberculosis and malaria.

Governance Officials are expected to demonstrate accountability. This requires Governance Officials to:

- Inform the Ethics Officer if they are/were personally subject to an investigation by the OIG or other authority;
- Inform the Ethics Officer if their professionally-affiliated organization is/was subject to an investigation by the OIG or other authority;
- Practice and promote full compliance with restrictions around confidential or sensitive documents or deliberations, as established by Board or Committee Leadership;
- Share documents within one's constituency and/or delegation in order to achieve better-informed decision-making, with the exception of documents identified by Board or Committee Leadership as confidential; and
- Embody the Global Fund's values in all Global Fund-related settings, including field visits, advocacy events and governance meetings.

d. Dignity and Respect

The Global Fund upholds the dignity of those affected by the diseases and uses its best efforts to ensure its funding does not contribute to discriminatory treatment or violation of human rights. Governance Officials must therefore always consider the dignity and respect of those affected by the diseases. In interactions with fellow Governance Officials and Global Fund staff, Governance Officials also have a responsibility to maintain an enabling environment guided by mutual respect.

Governance Officials are expected to demonstrate dignity and respect. This requires Governance Officials to:

- Seek to ensure that programs financed by the Global Fund are designed to promote dignity, self-respect and self-reliance by people affected by HIV/AIDS, tuberculosis and malaria;

- Act on the basis of equity and non-discrimination when engaging with organizations and individuals across Global Fund operations, without any form of harassment;
- Practice and promote respectful deliberations, decision-making and social interaction in all Global Fund settings; and
- Treat fellow Governance Officials and Global Fund staff with courtesy and respect, without harassment, or physical or verbal abuse, and not exert undue influence on their activities.

Administration and Enforcement

4. Authority and Responsibilities

The Committee has the authority to oversee implementation and enforcement of this Code, with the support of the Ethics Officer. Such authority includes modification to procedures or forms for declaring real, perceived or potential conflicts of interest.

5. Process for Addressing Conflicts of Interest

Should a Governance Official require guidance regarding ethics matters, s/he should raise the matter with the Ethics Officer. The Ethics Officer is empowered to address general conflict of interest issues. However, for conflict of interest issues determined by the Ethics Officer to be of a complex or highly visible nature, including those relating to Board/Committee Leadership, the Ethics Officer will refer the matter to the Committee. The Committee will then decide on the matter. The decision will be communicated to the concerned Governance Official and any other Global Fund official(s) whose involvement is necessary to implement the decision.

Should the conflict issue relate to a member of the Committee, including Committee Leadership, the concerned individual will recuse him/herself from the Committee deliberations and decision on the matter.

Experiencing a real, perceived or potential conflict of interest does not constitute ethical misconduct, provided it is disclosed preemptively. However, if on inquiry, the Committee determines that a Governance Official has not followed the procedures for disclosing and managing a real conflict of interest, it may determine that the Governance Official has committed ethical misconduct.

6. Process for Addressing Ethical Misconduct

For instances involving alleged ethical misconduct by Governance Officials, including Board/Committee Leadership, the matter will be reviewed and addressed by the Committee, with the support of the Ethics Officer. Should the misconduct concern a member of the Committee, including Committee Leadership, the concerned individual will recuse him/herself from the Committee's deliberations and decision on the matter.

The assessment of potential ethical misconduct will reflect due process and will be conducted on a strictly confidential basis.

7. Reporting Potential Ethical Misconduct

Individuals who suspect, or may be aware of, violations of this Code of Ethical Conduct have a responsibility to immediately bring them to the attention of the Global Fund, through the OIG Whistleblowing Line. The Global Fund will not tolerate retaliation against anyone who in good faith raises a concern or reports misconduct. However, knowingly reporting false information is contrary to this Code, and individuals who do so may be sanctioned accordingly.

8. Potential Consequences of Ethical Misconduct

If a Governance Official, including a member of Board or its Committees, takes any action that is not consistent with the principles or the standards of behavior reflected by this Code, the Global Fund has the responsibility to act to address the matter. Remedial actions will be determined on a case-by-case basis, but may include the following:

- **Formal Reprimand.** A reprimand in the form of an official letter to the concerned Governance Official and his/her constituency.
- **Conditional Removal.** Removal from Global Fund governance operations, at both the Board and Committee level, until certain conditions are satisfied, which may include addressing the concerned ethical issue.
- **Indefinite Removal.** Permanent removal from Global Fund governance operations, at the Board and Committee level.

The remedial action imposed by the Global Fund is established by the Committee, in consultation with the Ethics Officer.

9. Accountability to the Board

The Board will receive, as part of the annual opinion provided by the Ethics Officer, a regular update on the implementation of this Code and key lessons learned.

Terms of Reference of the Global Fund Ethics Officer

1. Mandate

Ethical conduct is a hallmark of the Global Fund, and applies to all those involved in the operation and governance of the organization. In accordance with the Ethics & Integrity Framework, adopted by the Board at its 32nd meeting in November 2014, the Ethics Officer is responsible for providing assurance on the extent to which the Global Fund has fully and effectively implemented its ethics and integrity-related policies, codes and requirements. The Ethics Officer therefore leads efforts to promote ethical values, monitor their implementation and respond to potential ethical misconduct.

2. Responsibilities

a. *Ensure Sound and Effective Ethical Risk Management*

- i. Provide an annual opinion to the Board, through the relevant Board Committee (the “Committee”), on the state of ethics and integrity across the Global Fund;
- ii. Monitor the effectiveness of existing systems, controls and procedures for mitigating ethics and integrity risks across Global Fund operations, including the activities of (i) the Board and its Committees; (ii) the Secretariat and Office of the Inspector General (OIG); (iii) grant implementers and Country Coordinating Mechanisms (CCMs); and (iv) third-party providers (e.g., LFAs and suppliers);
- iii. Advise the Secretariat and/or the Committee on potential modifications to ethics-related systems and policies to close gaps and improve controls;
- iv. Collaborate with the Secretariat to support the development and implementation of tools for embedding ethics and integrity into operations (e.g., communication strategies and trainings programs for Governance Officials, staff and external stakeholders); and
- v. Monitor the effectiveness of compliance systems for establishing consequence management for violations of ethical and integrity-related policies and codes, and propose modifications as appropriate to the Committee;

b. *Advice and Support across Global Fund Operations*

- i. Provide regular advice and support to Governance Officials on ethics and integrity-related issues (both at and in-between meetings) by, amongst other things, assessing and addressing general conflict of interest issues;
- ii. Provide regular advice and support to the Committee on its identification and response to potential ethical misconduct by Governance Officials;

- iii. Provide regular advice and support to the Secretariat on ethical matters pertaining to its activities, including issues related to grant recipients, CCMs, third-party providers (e.g., LFAs and suppliers) and staff; based on the Ethics Officer's advice, the Executive Director will determine and implement appropriate remedial actions;
- iv. Regularly report to the Committee on the Secretariat's activities in response to ethical issues; and
- v. Engage the Committee for its review of all complex or highly-visible cases.

c. Collaboration and Advocacy

- i. Collaborate with all relevant functional areas of the Global Fund to build and maintain full and effective ethics and integrity systems, particularly with the Office of the Inspector General, and the Grant Management, Risk Management, and Legal and Compliance functions of the Secretariat;
- ii. Collaborate with the Chief Risk Officer in his/her risk assessment to ensure ethical risks are identified;
- iii. Advocate for and advance high ethical standards in Global Fund operations, through engagement with management, staff and the Global Fund Ombudsperson; and
- iv. Collaborate with the Communications Department, on the Global Fund's ethics initiatives and commitment to its core ethical values.

d. Support Investigations of Ethical Misconduct

- i. Collaborate with the Inspector General to develop and administer a procedure to ensure the timely and appropriate referral of ethics matters to the Ethics Officer; and
- ii. Undertake preliminary reviews of potential ethical misconduct by Global Fund Governance Officials, staff and members of advisory bodies, and refer such cases to the Office of the Inspector General as appropriate;

e. Administrative and Managerial Functions

- i. Establish and maintain an electronic system for the submission and administration of declarations of real, perceived or potential conflicts of interest; and
- ii. Ensure the effective operation of the ethics function, including recordkeeping and management of its budget.

3. Required Skills and Experience

The Ethics Officer must:

- i. Have an advanced degree in ethics, law, business administration, corporate governance, or other related fields;
- ii. Have at least ten years of experience in the areas of organizational ethics, corporate responsibility and/or corporate governance;
- iii. Have demonstrated experience in creating and implementing ethics and compliance programs in multifaceted environments;
- iv. Have demonstrated experience in advising complex organizations on ethics-related issues at all levels including the Board, executive management and external stakeholders;
- v. Have demonstrated experience in advising international organizations and for-profit and/or non-profit entities in the areas of leadership, ethical values and organizational culture; and
- vi. Have fluency in written and spoken English, with a working knowledge of French desirable.

4. Competencies

a. Corporate Competencies

The Ethics Officer must:

- i. Demonstrate the Global Fund's core ethical values of integrity, duty of care, accountability, and dignity and respect;
- ii. Understand and promote the mission, strategy and priorities of the Global Fund; and
- iii. Display understanding and sensitivity to all values underpinning the mission of the Global Fund.

b. Functional Competencies

The Ethics Officer must have:

- i. Client orientation with a constructive approach to resolution of problems;
- ii. Excellent analytical skills and ability to interpret rules and guidelines, and ability to conceptualize policies;
- iii. Ability to demonstrate sound and independent judgment, prudence and maturity in complex and sensitive cases;

- iv. Excellent interpersonal skills with officials from the operational to most senior governance levels;
- v. Excellent drafting skills, and excellent communications skills (oral and written);
- vi. Ability to work with utmost discretion in handling sensitive and confidential matters; and
- vii. Respect for deadlines and ability to function under pressure.

5. Selection and Term

The Ethics Officer is appointed through standard Global Fund recruitment procedures, with a final recommendation by the Committee to the Board Leadership for decision, for a three-year term that may be renewed no more than once.

Given the unique role of the Ethics Officer, following the completion of his/her term(s) as Ethics Officer, s/he will be ineligible for future employment by the Global Fund.

6. Reporting Arrangement

The Ethics Officer will report to the Board through the Committee. The Ethics Officer will also provide regular advice and support to the Executive Director on the matters described in Section 2(b)(iii), and will report to the Office of the Inspector General for administrative purposes only.

This post is located in Geneva and may require frequent travel.

The performance evaluation of the Ethics Officer will be conducted by the Committee, with input from the Board Leadership, the Executive Director and the Inspector General.

ETHICAL ROLES AND RESPONSIBILITIES OF GLOBAL FUND GOVERNANCE OFFICIALS

This document provides guidance to Board Members, Board Alternates, Board Committee Members and Board Delegation Members (together, “Governance Officials”) on the nature of Board/Committee participation, and associated ethical responsibilities. This Guidance Document complements principles contained in the core ethical policies and governance documents adopted by the Board, including the Bylaws, Board Operating Procedures, Ethics and Integrity Framework¹ and the Code of Ethical Conduct for Governance Officials².

I. The Global Fund Board: An Innovation in Global Public Governance

In June 2001, the UN General Assembly called for the creation of the Global Fund, mobilizing contributions “from public and private sources, with a special appeal to donor countries, foundations, the business community, including pharmaceutical companies, the private sector, philanthropists and wealthy individuals.”³ As a reflection of this appeal, the Global Fund was organized around the principle of public-private partnership, which represented an innovation in the structure and operation of international organizations. This feature is strongest in the Global Fund’s governance. The Board not only includes representatives of country governments, but also representatives of the private sector, communities affected by the diseases, private foundations and non-governmental organizations from both developed and developing countries.

This novel partnership model also expanded the role of Governance Officials beyond that seen in several other international organizations. As described in the sections that follow, Global Fund Governance Officials have dual responsibilities, both to their respective constituencies and to the Global Fund itself. Reflecting the principle of collaboration, Governance Officials must balance their constituency responsibilities with the obligations to work in the Global Fund’s best interests, achieve compromise and protect the Global Fund from harm.

II. Duty of Care: Working in the Organization’s Best Interest and Respecting Compromise

The duty of care reflects the fiduciary responsibility of Governance Officials to always act in the best interest of the organization. Acting with the Global Fund’s best interest in mind is crucial towards fulfilling each Governance Official’s fiduciary responsibility as a steward of Global Fund resources, and his/her ultimate accountability over the use of those resources.

The Global Fund’s best interest represents serving its overall mission, objectives, priorities and values. Governance Officials should always bear in mind whether proposed strategies,

¹ GF/B32/DP09; Annex A to GF/B32/18 – Revision 1.

² GF/B33/DP10; Annex A to GF/B33/15 – Revision 2.

³ G.A. Res. S-26/2, ¶ 90, U.N. Doc. A/RES/S-26/2 (Aug. 2, 2001).

policies or decisions are in the Global Fund's best interest. In order to achieve this goal, it is often necessary for Governance Officials to demonstrate flexibility with respect to constituency positions and openness to the views of others. The obligations of Governance Officials in this regard are enshrined in the Global Fund's core governance documents.

- The Board and Committee Operating Procedures:

“While Board and committee members, including any relevant Alternate Member, represent their entire constituency, they have fiduciary responsibilities to act in the best interests of the Global Fund” [Annex 1, Section 2.2]

- The Global Fund Bylaws:

“Subject to their respective representative roles, Governance Officials shall act in good faith in the best interests of the Global Fund in furtherance of its purpose” [Section 7.2, paragraph 3]

- The Board and Committee Operating Procedures:

“The Board shall use best efforts to reach all decisions by consensus...”
[Section 15.1]

III. Integrity: Transparency regarding Conflicts of Interest

All Governance Officials have a responsibility to exhibit the highest standard of integrity. A key element of integrity is demonstrating full transparency regarding perceived and potential conflicts of interest.

Conflict of interest is defined in the Code of Ethical Conduct for Governance Officials:

A conflict of interest is generally a situation where a Governance Official has a competing interest, such as a personal or financial interest, which could have a real, perceived or potential effect on his/her ability to act with the best interests of the Global Fund in mind.
[Section 3(a)]

Because Governance Officials are responsible for representing stakeholder interests, all Members have an 'interest' in governance issues. However, as a general principle: a Governance Official is acting with a conflict of interest when he/she has, or could be perceived as having a vested interest that could interfere with his/her judgment and ability to do what is best for the Global Fund.

Some examples of situations that could create conflicts of interest are:

- A Board Member is hired as a consultant to develop a funding proposal for a Global Fund grant. That funding proposal is part of the package of funding proposals presented to the Board for approval.
- A Board Member is employed by a manufacturer of health products used in Global Fund programs. His/her company could be affected by an intellectual property policy that will be considered by the Board.

- A Board Member is the head of organization nominated to be a Principal Recipient for a Global Fund funding proposal. That proposal is part of the package of funding proposals presented to the Board for approval.
- A Board Member has been notified that he/she is under investigation by the Office of the Inspector General, and adverse evidence has been found. As a Board Member, he/she is involved in overseeing the Inspector General.

Within the Global Fund's stakeholder model, the presence of a conflict of interest often depends on the surrounding context. In addition, possessing a conflict of interest does not in itself represent ethical misconduct. Instead, Governance Officials should be fully transparent regarding any interests they may have in Global Fund operations, especially in Board matters, and work with the Ethics Officer to identify and manage any potential conflicts.

As stewards of the Global Fund, Governance Officials are entrusted with significant authority. Therefore, in addition to avoiding conflicts of interest, integrity requires Governance Officials to avoid any action that is, or could be perceived as, an abuse of their position. Conduct that clearly falls below this standard includes harassment of Secretariat or Office of the Inspector General staff, or intimidating staff in order to influence operational decisions.

IV. Accountability: Protecting Sensitive Information, Promoting Candid Deliberations

One of the Global Fund's core principles is transparency. Consequently, it is the policy of the Global Fund to disclose, to the fullest extent possible, information regarding its operations. However, there is a narrow category of information that is inappropriate for public release. Release of this information could expose the Global Fund to legal liability (e.g. claims of data privacy breaches, defamation, etc.) or other harm. Consequently, there are situations where the Board Leadership, acting with the advice of Legal Counsel, designates certain documents or deliberations as strictly confidential, oftentimes with an accompanying confidentiality agreement. Confidentiality issues can also occur at the Committee level, as determined by Committee Leadership.

These situations demand a balance between Governance Officials' responsibilities towards their respective constituencies and the Global Fund. While Governance Officials have a general obligation to keep their constituencies informed of governance matters, they are also obliged to protect the Global Fund (e.g., not expose the Global Fund to lawsuits or challenges). Governance Officials must therefore refrain from disclosing confidential information within limits established by Board/Committee Leadership. In turn, constituencies should acknowledge the need for the Global Fund to establish confidentiality in certain situations, and their representative's obligations in this regard.

V. Conclusion

Guidelines are always subject to refinement and iteration based on practical experience. Comments are welcome from Governance Officials and others for clarity and improvement. Please contact the Ethics Officer for further information.