

38th Board Meeting

Global Fund Policy to Combat Fraud & Corruption

GF/B38/06 – Revision 2

14-15 November 2017, Geneva, Switzerland

Board Decision

Purpose of the paper:

This paper presents the attached Policy to Combat Fraud and Corruption (CFC Policy) for Board decision on recommendation by the Ethics and Governance Committee (EGC).

Decision

Decision Point: GF/B38/DP09: Approval of Policy to Combat Fraud and Corruption

- 1. Based on the recommendation of the Ethics and Governance Committee, the Board approves the Global Fund Policy to Combat Fraud and Corruption as set forth in Annex 4 to GF/B38/06 – Revision 2;***
- 2. The Board directs the Executive Director to develop an implementation plan, and to periodically report to the Board through the Ethics and Governance Committee on its implementation of the Policy to Combat Fraud and Corruption, as part of regular updates pursuant to the Ethics and Integrity Framework;***
- 3. Consistent with his/her authority to implement the Policy to Combat Fraud and Corruption, the Executive Director shall have delegated authority to approve exceptions to the Policy. This provision does not apply to access rights of the Office of the Inspector General for which the Inspector General shall have such delegated authority;***
- 4. The Board further directs that appropriate and regular reporting be made by the Executive Director and the Inspector General to the Ethics and Governance Committee and the Audit and Finance Committee where implementation may affect matters under their Charters regarding the exercise of the authority delegated under paragraph 3 of this Decision Point; and***
- 5. The authority delegated to the Executive Director and the Inspector General, as the case may be, under paragraph 3 of this Decision Point expires at the moment when the Board has adopted the framework the Board has requested the Secretariat to develop in GF/B37/DP07.***

Budgetary implications not applicable

A summary of relevant past decisions providing context to the proposed Decision Point can be found in Annex 2.

Executive Summary

Context

Prevention, detection, and response to fraud and corruption is not new in the Global Fund. Since the Global Fund's inception, the Board has approved a number of policies, charters, and codes of conduct, putting in place critical building blocks of a comprehensive anti-corruption framework. Given the Global Fund's increasing level of maturity, a policy-level, comprehensive statement regarding fraud and corruption is appropriate and warranted to enable, or make more effective, further action.

Questions this Paper Addresses

- A. Why is a Policy to Combat Fraud and Corruption now required?
- B. What support is there for this Policy?
- C. How will the Policy be rolled out?

Conclusions

- A. The "Policy to Combat Fraud and Corruption" (Policy) is needed to establish strategic, overarching, clear and consistent policy principles as a "tone from the top" on the prevention, detection, and response to fraud and corruption. The Policy will form a fundamental part of the Anti-Corruption Framework required by the Board-approved Ethics and Integrity Framework (E&I Framework).
- B. The Secretariat has developed this Policy in close collaboration with the OIG, and it has extensively consulted it with the AFC and Board constituencies before submitting it to the EGC. This version of the Policy incorporates recommendations emerging from consultations and enjoys unanimous support from the AFC and the Board constituencies.
- C. Upon Policy approval, the Secretariat will update relevant policies, codes of conduct, and other enforcement mechanisms to align with the Policy. The Secretariat will also close known gaps to the Anti-Corruption Framework by (1) presenting for Board approval a Code of Conduct for CCM Members which extends anti-corruption controls to CCM Members and (2) operationalizing a risk-based integrity due diligence approach vis-à-vis third parties to proactively identify parties that pose fraud and corruption risk to the Global Fund and its grants. The Secretariat will also continue to systematically assess and improve Global Fund processes and controls for fraud and corruption prevention, deterrence, detection and response to advance its mission.

Input Sought

The EGC recommends that the Board approve Decision Point GF/B38/DPO9, thereby approving the "Policy to Combat Fraud and Corruption" (Policy), attached as Annex 4.

Input Received

See Annex 1 for an overview of the comprehensive consultations with the OIG, AFC, EGC, and Board constituency members. We understand that there is unanimous support for this Policy.

Cover Paper

What is the Need and the Proposal: A Policy to Combat Fraud and Corruption

- 1. A need for a formalized commitment to anti-corruption.** While the Global Fund has many strong elements of an anti-corruption program in place, it is lacking a formal policy in which the Board explicitly articulates that fraud and corruption impedes the Global Fund's mission and that prevention, detection and response to fraud and corruption is a Global Fund priority. Stakeholders, and in particular donors, are seeking to be reassured that the Global Fund takes its role as a steward of public funds with the utmost seriousness and, where appropriate, holds itself to best practices in the area of anti-corruption. Indeed, best practice suggests that the foundation of any robust anti-corruption program is the tone from the top—an unambiguous statement of commitments, principles, and requirements that set the strategic direction for anti-corruption across an institution. A Board-level policy fulfilling these objectives is needed to set such a tone across the Global Fund's ecosystem.
- 2. A comprehensive high-level policy on anti-corruption is appropriate to advance the Global Fund's maturity.** As part of the review of the adequacy of anti-corruption controls in the Global Fund the Ethics Office has confirmed the need for an overarching Board-level policy on combatting fraud and corruption which:
 - Comprehensively restates the Global Fund's commitment to preventing, detecting and responding to fraud and corruption;
 - Updates definitions of Prohibited Practices in line with internationally recognized norms, applicable to all Global Fund Activities; and
 - Is the cornerstone of the fit-for-purpose, risk-based Anti-Corruption Framework mandated by the Board-approved Ethics and Integrity Framework.
- 3. Benefits of the Policy.** As the Policy is anchored in best practice among international financing institutions and certain compliance environments, its approval will send a strong signal that the Global Fund intends to remain a leader in the realm of anti-corruption, thereby decreasing reputational risk. Enabling alignment on the issue, from the Board to beneficiaries, and focusing efforts on maximizing impact, represents a 'tone from the top' that will help reassure donors that the Global Fund takes its stewardship of public funds and commitment to impact seriously. The Policy will also serve to ensure current safeguards and systems remain functional and effective with respect to fraud and corruption risk, and reflect evolving international norms and best practices.

What Was Considered: Stakeholder Support for the Policy

- 4. Constituencies support the Policy's strategic direction, definitions, and framework.** Consultations with the AFC and all Board constituencies have borne out broad support for the Policy, as is outlined in Annex 1. In particular, stakeholders have expressed support for the following:
 - The strategic direction which articulates the causal relationship between fraud and corruption and the Global Fund's mission and recognizes fraud and corruption risk as not only a financial risk, but also as a programmatic and mission risk.
 - The collective ownership for prevention, detection, and response to fraud and corruption, from the Board, to the Secretariat, to implementers and counterparties.

- The fact that definitions of Prohibited Practices, related obligations, and elements of the Anti-Corruption Framework are aligned with international best practice.
- The fact that the Policy brings together in one place existing commitments, definitions, and requirements that have been in practice at the Global Fund for several years.

What is Next: How Will the Policy be Rolled Out?

5. **Previously assigned roles and responsibilities remain unchanged.** This Policy does not alter the roles and responsibilities established by other Board-approved documentation in the area of fraud and corruption, which are catalogued in Annex 3. It reflects existing accountabilities across the 1st, 2nd, and 3rd line functions (i.e., Executive Director, Risk & Ethics, and OIG, respectively) as well as governance level oversight (EGC and AFC). Section 6 of the Policy, which establishes the accountabilities for oversight and implementation of the Policy, is a direct reflection of the accountabilities the Board established in paragraphs 7-9 of the E&I Framework.
6. **Policy roll out.** The Policy mandates the Secretariat to ensure its implementation and applicability. As such, the Policy's will trigger the several actions on the part of the Secretariat, outlined below.
7. **Enforcement mechanisms will be updated where necessary.** Going forward, contracts and Codes of Conduct will be updated to ensure consistency with the language and obligations of this Policy. A single set of definitions and requirements ensures clarity and predictability for all Covered Parties.
8. **Communication and training on the Policy will be conducted.** As training and communication is a critical component of a comprehensive Anti-Corruption Framework the Global Fund will incorporate sensitization to and training on the Policy into its existing communication and training modalities, as well as continue to evolve a comprehensive training package, in particular for in-country stakeholders such as CCMs and implementers.
9. **Known gaps in the Anti-Corruption Framework will be closed.**
 - To ensure the Policy's enforcement vis-à-vis all Covered Parties, the Global Fund will **issue a Code of Conduct for CCM members** that extends the Policy's obligations to CCM members—the only Covered Parties currently not covered by Global Fund anti-corruption obligations. The Ethics Office brought forward the Code of Conduct to the Board in May 2017 and is currently undertaking consultations on the Code's substance and operationalization with CCMs and the Board with a view to meeting Board approval in May 2018. Communication, training, and enforcement of the Code of Conduct will be rolled out throughout the remainder of 2018.
 - The Global Fund is also working to address a known gap in best-practice fraud and corruption prevention, **integrity due diligence**. The Global Fund aims to develop a comprehensive, risk-based approach to proactively identifying organizations and individuals who pose a fraud and corruption risk by end 2018.
10. **Risk Assessments will inform the need for further enhancements to the Anti-Corruption Framework.** These will be risk-based, differentiated, and integrated into existing processes.
 - The Global Fund has many anti-corruption mechanisms and controls already in place, and has further initiatives underway that will strengthen these. The Ethics Office, as part of its

regular work to prepare its annual opinion on the strength of anti-corruption controls, will work closely with the Risk Function and other affected Divisions and Departments to continue to assess whether these mitigate the scale, scope and nature of the fraud and corruption risks that the Global Fund faces.

- Opportunities for appropriate enhancements that bring the Global Fund in line with the proposed Policy will be agreed, and will also take into account ongoing developments relating to risk appetite.
11. **Resource and Budget Implications.** Resource or budget proposals relating to enhancements identified above will be reflected in the regular budgeting process of the Secretariat for 2018 and beyond.
 12. **The Ethics Office will regularly monitor performance and report against the Policy to Board.** The Ethics Officer will monitor and regularly report to the Board, through the Ethics Annual Report, on the state of the Anti-Corruption Framework at the Global Fund.

Managing exceptions

13. **Rationale for delegating authority to the Executive Director/Inspector General** – The proposed Policy imposes strict obligations on Covered Persons, which can be any person or entity entering into a contractual relation with the Global Fund. Some of those counterparties may not be in a position to accept such obligations, such as UN entities which are bound by the single audit principle, Multilateral Development Banks (“MDBs”) which are bound by their establishing treaties, but also regulated banks and insurance companies which have to comply with legal requirements overseen by regulators.
14. **Non-access rights exceptions** – The draft policy requires a Covered Person which is an entity to ensure compliance with the policy within its organization (para. 5.1). It is likely that some Covered Persons will claim not to be in a position to accept this provision. In those cases, the Global Fund will have to make an assessment of the internal policies of its counterparties. If those are, in the view of the Global Fund, substantially similar to the draft Policy, the fund may want to decide to go ahead with the relevant counterparty despite the fact that such counterparty will be exempt from literal application of para. 5.1. This could be the case with UN agencies, MDBs, regulated banks and insurance companies, but also with large well established vendors using standard terms and conditions of contract (e.g. IT suppliers). Without para. 3 of the Decision Point, a decision on such determination can only be made by the Board as it concerns a deviation from a Board policy. This will obviously delay operations of the fund and burden the Board with many operational decisions. Similarly, an assessment may have to be made if a proposed counterparty is not in a position to “ensure” compliance but is willing to agree to take all reasonable best efforts to ensure compliance or similar wording. Again, the Global Fund is to make a determination of the procedures in place to assess whether such commitment would be sufficient.
15. **Access rights** – The draft Policy is to apply to all counterparties of the Global Fund. Para. 5.7 imposes the obligation to grant “unfettered access”. It is likely that some counterparties will push back against this obligation as they may not be in a position to agree as a result of applicable internal rules such as UN and MDB’s charters or applicable laws (banks, insurers, lawyers). The purpose of para. 3 of the decision point is to allow the Inspector General to make the determination whether or not to waive access rights in specific circumstances.
16. **Consultations and reporting** – Despite the operational room to maneuver allowed under the proposed para. 3 of the Decision Point, both Executive Director and Inspector General may deem it desirable to consult with the relevant Committee(s) or Board prior to exercising their authority to

approve exceptions to the policy. A periodic reporting obligation for Executive Director and Inspector General has been added to the Decision Point so that the relevant Committees and Board remain informed of the exercise of the delegated authority.

17. **Interim nature** – The Board requested the Secretariat in GF/B37/DPO7 to develop a framework to guide future consideration of investments through third parties for presentation to and review by the Audit and Finance Committee, in consultation with the Strategy Committee, for recommendation to the Board. This framework is meant to include criteria for allowing the Executive Director and Inspector General to deviate from Board approved policies. Once this framework has been approved by the Board, the delegation of authority proposed in para. 3 of the Decision Point will terminate.

Recommendation

18. Following review and discussion at its 5th meeting and taking into account the results of the consultations of the AFC and broader stakeholders, the EGC recommends the Decision Point presented on page 2 to the Board.

Annex 1 – Summary of Stakeholder Input

There is broad and uniform support for the Policy:

- **Office of the Inspector General.** The Policy was drafted in close collaboration with the OIG. The OIG supports the Policy and believes its implementation will simplify communication and understanding of the OIG’s findings. It may enable more mature and constructive action around fraud and corruption.
- **The Audit and Finance Committee.** The Ethics Office conducted detailed consultations with the AFC, and the AFC issued a memorandum to the EGC in which it states, “overall, the AFC expresses its strong support for the proposed Policy. The AFC feels that the Global Fund will benefit from a comprehensive policy statement on fraud and corruption. Furthermore, the AFC has expressed its satisfaction that the Policy is well-crafted, comprehensive, and well-organized. In particular, the AFC welcomes the Policy’s framing of fraud and corruption as a mission risk. The AFC also appreciates the consistency of proposed definitions of prohibited practices with international standards.” The AFC also made recommendations to strengthen the Policy, and they are incorporated into this final version.
- **Board Consultations.** The Ethics Office also undertook consultations with all Board constituencies, captured in the table below.

Donor Group	Implementer Group	Non-Voting
Canada, Switzerland, Australia	Communities	Partners
France	Developed NGOs	WHO
European Commission	Developing NGOs	
Germany	EECA	
Japan	LAC	
Point Seven	South East Asia	
Private Foundations	West & Central Africa	
Private Sector	Western Pacific	
UK	Eastern Mediterranean*	
USA	Eastern and Southern Africa	

*Only through AFC membership

Feedback was gathered through one-on-one conversations with Governance Focal Points, Board Members, Alternates, and/or Communications Focal Points; or through written correspondence. The Ethics Office also attended the Implementer’s Retreat in Bucharest on 21-22 September as well as the African Constituency meeting in Addis on 15-16 October to answer outstanding questions relating to the CFC Policy. Constituencies expressed uniform and strong support for the Policy. Recommendations provided by constituencies are also incorporated into this final version of the Policy.

The Ethics and Governance Committee. The EGC first reviewed the Policy in March 2017. It expressed overall support for the Policy and requested that the Secretariat gather input from the Audit and Finance Committee and from the wider Board. Overall, adjustments to the Policy proposed through the consultation were editorial in nature, and discussions focused on clarifying questions about Policy enforcement and operationalization. One matter—clarity on handling of operational exceptions to the Policy (e.g., to rights of access)—required engagement of the General Counsel, the Inspector General, and additional AFC and EGC input. It was ultimately resolved through the wording of para. 3 of the proposed Decision Point. The EGC recommended the Policy for Board approval in October 2017.

“The draft policy on Combating Fraud and Corruption is comprehensive, focused, well researched and benchmarks on existing tested experiences of International Financial Institutions, which makes it an exceptional document.” ESA Statement

“We believe the proposed policy puts us one step further in the right direction as the Global Fund strengthens its capacity to combat and reduce the risk of fraud and corruption in all forms in all our programs.” Developing Country NGO Statement

Annex 2 – Relevant Past Decisions

Relevant past Decision Point	Summary and Impact
GF/B32/DP09: Ethics and Integrity: First Stage Policy Proposals (November 2014)	Approval of the Ethics and Integrity Framework, which directs the ethical values of integrity, duty of care, accountability, and dignity and respect to be “fully integrated” into the Global Fund and calls for “an integrated compliance and Anti-Corruption Framework” which will “engender stakeholder trust in the Global Fund and safeguard resources dedicated to health.”

Annex 3 – Relevant Past Documents & Reference Materials

In-depth analysis of the Policy is available in the prior two papers submitted to the EGC, first in March 2017 (see GF-EGCo3-11), and then in October 2017 (see GF-EGCo5-06).

Board-Approved Anti-Corruption Policies to Date: Since the Global Fund’s inception, the Board has approved several documents relating to fraud and corruption.

- In 2002, the Board approved the **Policy on Ethics and Conflict of Interest**¹ which guides the Global Fund’s approach to preventing, detecting and responding to fraud and corruption risk borne out of conflicts of interest at the Board and Secretariat level.
- In 2006, the Board approved the **Office of the Inspector General’s Charter**, which empowers the office to investigate “fraud, abuse, misappropriation, corruption and mismanagement; to create mechanisms for reporting potential fraud and abuse;...identify systemic weaknesses providing opportunities for fraud and abuse... and make recommendations... on changes that it can make to its grant management practices to address them; [and]... develop and administer a training program for the prevention and detection of fraud and abuse.”²
- Starting in 2006 as well, the Board approved **the Whistle-blowing Policy**³ which articulates “the Global Fund’s overriding duty to manage [its] funds responsibly, including proactively protecting [its] funds from abuse or misdirection so that they can reach their intended destinations for their intended purposes.”⁴ It also places a duty to report “past or present misconduct occurring in relation to any of the Global Fund’s activities”⁵ on all Global Fund stakeholders.
- Throughout these years, and most notably in 2014, the Board supported and required reporting on the **status of recoveries** emerging from OIG findings.⁶

¹ The Policy on Ethics and Conflict of Interest for Global Fund Institutions, approved 10-11 October 2002, as amended at the Eighteenth Board Meeting (GF/B18/8) and at the Twenty-Seventh Meeting GF/B27/DP05), and may be further amended from time to time.

² The Charter of the Office of the Inspector General, approved in April 2006 under decision point GF/B13/DP16, as set forth in Annex 5 to the Report of the Finance and Audit Committee (GF/B13/9), paras. 9.7, 9.8, and 9.9.

³ Whistle-blowing Policy and Procedures for the Global Fund to Fight AIDS, Tuberculosis, and Malaria (the “Whistleblowing Policy”). As adopted at the Thirteenth Board meeting in April 2006 (Document GF/B13/6) and amended at the Twenty-Third Board meeting in May 2011 (Decision Point GF/B23/DP19) and at the Thirtieth Board meeting in November 2013 (Decision Point GF/B30/DP4), and may be further amended from time to time.

⁴ Id., at Para. 2.

⁵ Id., at Para. 5.

⁶ See e.g., DP GF/B32/DP04

- The Board has also delegated oversight authority to the EGC in regard to the **Sanctions Panel** and decision-making authority to approve the independent external members thereof.
- In 2014, the Board approved the **Risk Management Policy**⁷ in which it states that “the Global Fund has a ‘zero-tolerance’ policy which means that the Global Fund does not tolerate corruption, fraud, misappropriation or abuse of any kind in relation to its grants.”⁸ It also outlines the roles of the Chief Risk Officer, which includes “coordinat[ion] and facilitat[ing] the development and operation of risk management processes throughout the Secretariat; verify[ing] that the risk management processes are functioning, and contributing to the organization’s Ethics related activities.”⁹
- In 2014, the Board also approved the Global Fund’s **Ethics and Integrity Framework**¹⁰ (the “E&I Framework”) which states that “the strength of the Global Fund is contained in its values, of which ethics and integrity are integral.” The E&I Framework directs the ethical values of integrity, duty of care, accountability, and dignity and respect to be “fully integrated” into the Global Fund and calls for “an integrated compliance and Anti-Corruption Framework” which will “engender stakeholder trust in the Global Fund and safeguard resources dedicated to health.” Through the E&I Framework, it instructs the Executive Director to “take strong and immediate action to address proven ethical misconduct.”¹¹
- In 2015, Board also approved the **Ethics Officer Terms of Reference**¹² which charges the Ethics Officer with the responsibility to ensure a sound Anti-Corruption Framework throughout Global Fund governance bodies, the Secretariat, and operations.¹³ The Ethics Office plays a 2nd-line-of-defense role in the area of anti-corruption: it evaluates the quality of existing anti-corruption controls; sets standards; advises and initiates anti-corruption improvements to be operationalized by the 1st line functions within the Secretariat and grant-level operations; monitors compliance; and reports on progress.¹⁴
- Over the years, the Global Fund has issued **codes of conduct** for governance officials, staff, implementers and suppliers through which fraudulent and corrupt practices are defined and prohibited.

⁷ As approved by the Board in November 2014 under Decision Point GF/B32/DP11, and may be amended from time to time.

⁸ Id., at Para. 26.

⁹ Id., at Para. 28.

¹⁰ As approved by the Board in November 2014 under Decision Point GF/B32/DP09 and as set forth in GF/B32/18 – Revision 1, as may be amended from time to time.

¹¹ Id., at para. 14.

¹² Terms of Reference of the Ethics Officer, approved by Board on 30 July 2015 under decision point GF/B33 EDP14, as set forth in Annex 1 to document GF/B33/ERO8, as may be amended from time to time.

¹³ The EO’s Terms of Reference include the responsibility to ensure sound and effective ethical risk management, by (1) providing an annual written opinion on the state of ethics and integrity across the entire Global Fund and the activities it finances, including anti-corruption controls; (2) advising the Executive Director and/or the Committee on potential modifications to ethics-related systems and policies to close gaps and improve controls; (3) collaborating with the relevant functional areas to support the development and implementation of tools for embedding ethics and integrity into operations; as well as (4) monitoring effectiveness of compliance system for holding individuals and entities accountable for violations of ethical and integrity-related policies and codes, and propose modifications as appropriate. The first EO was appointed in May 2016.

¹⁴ Prevention, detection and response is a coordinated and collective effort across the Global Fund and all of its partners. The Executive Director, Inspector General, and Ethics Officer (EO) all have elements of the response to fraud and corruption within their respective mandates, and they coordinate to ensure alignment with and implementation of the Policy, with the EO coordinating the implementation of the Anti-Corruption Program and reporting on progress to the Board.

Annex 4 – The Global Fund Policy to Combat Fraud and Corruption

The Global Fund Policy to Combat Fraud and Corruption¹

1. BACKGROUND & PURPOSE

1.1 **Fraud and Corruption Impede the Global Fund’s Mission.** The Global Fund recognizes that fraud and corruption,² in all their forms, are a threat to the fight to end the epidemics: they corrode public health institutions and systems and facilitate human rights abuses, ultimately stunting the quality and quantity of interventions needed to save lives. They divert funds, medicines and other resources away from countries and communities in need, limiting impact and reducing trust essential to the Global Fund’s multi-stakeholder partnership model.

1.2 **The Ethics and Integrity Framework.** The Global Fund’s Ethics and Integrity Framework³ (the “E&I Framework”) states “the strength of the Global Fund is contained in its values, of which ethics and integrity are integral.” The E&I Framework directs the ethical values of integrity, duty of care, accountability, and dignity and respect to be “fully integrated into the Global Fund’s culture and activities, including its grant programs, and complied with by all entrusted with Global Fund resources and/or responsibilities.” The E&I Framework calls for an “integrated compliance and anti-corruption framework” which will “engender stakeholder trust in the Global Fund and safeguard resources dedicated to health.”

1.3 **Anti-Corruption is Integral to Achieving Impact.** The Global Fund further recognizes, pursuant to the E&I Framework, that an integrated compliance and anti-corruption framework (“Anti-Corruption Framework”) is imperative to achieving impact and obtaining value for money. By properly managing fraud and corruption risk, the Global Fund puts into practice its values of integrity, duty of care, and accountability to its donors and people affected by or living with the diseases.

1.4 **The Purpose of the Policy to Combat Fraud and Corruption.** This Global Fund Policy to Combat Fraud and Corruption⁴ (the “Policy”):

- Comprehensively restates the Global Fund’s commitment to preventing, detecting and responding to fraud and corruption;
- Establishes definitions of Prohibited Practices, which the Global Fund shall apply and enforce in all Global Fund Activities; and
- Directs the Global Fund to maintain and enhance a fit-for-purpose, risk-based Anti-Corruption Framework applicable to all Global Fund Activities.

¹ As approved by the Board in November 2017 under decision point GF/B38/DP09 and as set forth in Annex 4 to GF/B38/06 - Revision 2.

² The Global Fund considers all “Prohibited Practices” as defined herein to be forms of fraud and corruption, and the terms are used interchangeably in this document.

³ The Ethics and Integrity Framework, as approved by the Board in November 2014 under decision point GF/B32/DP09 and as set forth in GF/B32/18 – Revision 1, as may be amended from time to time.

⁴ This Policy may be amended from time to time.

2. SCOPE OF APPLICATION

2.1 **Covered Activities.** This Policy applies to “Global Fund Activities,” which are all activities the Global Fund, directly or indirectly, through grant implementers or other Counterparties, engages in (e.g., governance processes, Secretariat operations, partner engagements, policy discussions, convening activities) or finances, in whole or in part, whether through grant programs or any other form of payment, worldwide.

2.2 **Covered Parties.** This Policy covers the following institutions and individuals, collectively referred to as “Covered Parties”:

- a. **Governance Level.** Global Fund governance officials, including members of the Board, alternates, focal points, members of any committee, task force, the Technical Review Panel, the Technical Evaluation Reference Group, or any other advisory or affiliate body of the Global Fund;
- b. **The Secretariat and OIG.** Secretariat and OIG, including its employees, secondees, and interns employed directly or indirectly by the Global Fund;
- c. **Implementers.** Institutions and individuals who, directly or indirectly, (i) receive Global Fund financing through grants or (ii) are involved in the implementation or oversight of Global Fund grant programs (including members and employees of Country Coordinating Mechanisms); and the directors, officers, employees, affiliates and agents of the foregoing;
- d. **Counterparties.** Contractual counterparties to the Global Fund or to Implementers, on a commercial basis or otherwise (including, without limitation, vendors, consultants whether individuals or entities, Local Fund Agents, and other providers of goods and/or services) and the directors, officers, employees, affiliates, agents, contractors and sub-contractors of the foregoing.

3. PRINCIPLES

3.1 The Global Fund’s mission and four principles of transparency, partnership, performance based financing, and country ownership set the strategic direction for the Global Fund’s approach to fraud and corruption prevention, detection, and response in the following manner:

3.2 **Zero Tolerance.** The Global Fund takes a zero-tolerance approach towards Prohibited Practices. As an institution entrusted with investing public monies for the public good, and consistent with its principle of linking financing to performance, the Global Fund maintains an effective and adequate response to instances of Prohibited Practices when detected.⁵ It will respond firmly to such instances with appropriate and adequate measures that could include disciplinary actions, recovery of funds, termination or freezing of grants, referrals to supranational and/or national administrative, civil or criminal authorities, formal letters of censure, conditional continued engagement, debarment, and/or other compensatory or punitive remedies as may be available and applicable.

3.3 **Anti-Corruption Advances Impact.** The Global Fund recognizes that fraud and corruption infiltrate not only financial management, but also strategic decision-making,

⁵ This principle is consistent with the Global Fund’s E&I Framework, which states that the Global Fund takes “strong and immediate action to address proven ethical misconduct.” E&I Framework, at supra footnote 3, para. 14.

governance, public health systems, program quality and reporting. It therefore affirms that fraud and corruption are program and mission risks and prioritizes the prevention, detection and response to prohibited practices to advance the Global Fund’s mission of ending the epidemics.

3.4 **Align with International Anti-Fraud and Anti-Corruption Norms.** The Global Fund will implement this Policy by aligning, where appropriate, with existing best practices such as international conventions, the practices of international financing institutions, and compliance systems and environments.

3.5 **Engage with Partners.** The Global Fund will engage with its partners in the collective effort to prevent, detect and respond to fraud and corruption.

3.6 **Enable Prevention and Detection through Transparency.** The Global Fund reiterates its commitment to transparency in Global Fund Activities, recognizing the challenging yet essential role public disclosure and transparency play in driving accountability as well as fraud and corruption prevention and detection.⁶

3.7 **Countries Own Anti-Corruption.** Consistent with the Global Fund principle of Country Ownership, and recognizing that country stakeholders are the ultimate owners of the fight against the three diseases, they also own the responsibility to prevent, detect, and respond to Prohibited Practices in their activities supported by the Global Fund.

3.8 **Strengthen Sustainable Systems for Health.** For health systems to sustainably deliver on public health, they too need to prevent, detect, and respond to Prohibited Practices. The Global Fund will support anti-corruption measures as part of its efforts to strengthen sustainable health systems.

3.9 **Support Community Engagement.** The Global Fund will continue to contribute to the empowerment of affected communities, ensuring their meaningful engagement in Global Fund-related processes, recognizing that community empowerment is critical for ensuring accountability of programs and is an effective means of preventing, detecting, and responding to fraud and corruption.

4. PROHIBITED PRACTICES

4.1 The Global Fund collectively refers to Corrupt Practices, Fraudulent Practices, Coercive Practices, Collusive Practices, Abusive Practices, Obstructive Practices, Retaliation, Money Laundering, and Financing of Terrorism as “Prohibited Practices.”

4.2 **Corrupt Practices.** A Corrupt Practice is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.⁷ Corrupt Practices include, but are not limited to, bribery, kickbacks and facilitation payments in

⁶ Key elements of this commitment are the public disclosure of instances of fraud and corruption by the Office of the Inspector General, and the response to those events.

⁷ A “party” can be a Covered Person or any other individual or institution.

connection with a Global Fund Activity.⁸ For the avoidance of doubt, facilitation payments are considered corrupt practices as well.

4.3 Fraudulent Practices. A Fraudulent Practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation. For avoidance of doubt, this includes without limitation health product substitution and counterfeiting, as well as misrepresentation or manipulation of any information arising from or relating to Global Fund Activities such as proposals, plans, evaluations, invoices, signatures, performance data, epidemiological data, reports, and audits.

4.4 Coercive Practices. A Coercive Practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. For avoidance of doubt, this includes without limitation reputational or other impairment or harm, as well as physical harm.

4.5 Collusive Practices. A Collusive Practice is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party. For avoidance of doubt, this includes without limitation arrangements involving Global Fund governance officials, staff and/or third parties which are intended to, or may have the effect of or result in, circumvention of Global Fund policies, regulations or procedures.

4.6 Abusive Practices. Abusive Practices include the theft, misappropriation, embezzlement, waste or improper use of property, either committed intentionally or through reckless disregard. For avoidance of doubt, this includes without limitation diversion of Global Fund money, as well as assets purchased with Global Fund money, including health products.

4.7 Obstructive Practices. An Obstructive Practice is (i) deliberately destroying, falsifying, altering or concealing evidence material to an inquiry by the Global Fund,⁹ or making false statements in order to materially impede a Global Fund inquiry into allegations of Prohibited Practices; (ii) threatening, harassing or intimidating any party to prevent it from disclosing, or as retaliation for disclosing, its knowledge of matters relevant to a Global Fund inquiry or from pursuing the inquiry; (iii) engaging in acts which impede the exercise of the Global Fund's access rights, including the access rights described in this Policy; or (iv) failing to comply with the duty to report as defined in the Whistleblowing Policy,¹⁰ or under relevant obligations including para. 5.4 of this Policy, in a timely manner.

4.8 Retaliation. Retaliation is any intentional or reckless act of discrimination, reprisal, harm, harassment or retribution, direct or indirect, which is recommended, threatened, or taken against anyone who either refuses in good faith to participate in the facilitation or commission of any Prohibited Practice, or who in good faith reports suspicion or knowledge of Prohibited Practices to the appropriate channels in the Global Fund or within Implementers or Counterparties.

⁸ Facilitation payments are payments made in connection with a Global Fund Activity to a public official to secure or expedite the performance of a certain routine action.

⁹ For avoidance of doubt, the destruction, falsification, alteration or concealment of evidence in contravention of contractual obligations to maintain books, records, or other information will be among the circumstances deemed to constitute deliberately and materially impeding a Global Fund inquiry.

¹⁰ Whistle-blowing Policy and Procedures for the Global Fund to Fight AIDS, Tuberculosis, and Malaria (the "Whistleblowing Policy"). As adopted at the Thirteenth Board meeting in April 2006 (Document GF/B13/6) and amended at the Twenty-Third Board meeting in May 2011 (Decision Point GF/B23/DP19) and at the Thirtieth Board meeting in November 2013 (Decision Point GF/B30/DP4), and may be further amended from time to time.

4.9 **Money Laundering.** Money Laundering is: (i) the conversion or transfer of property, directly or indirectly, knowing that such property¹¹ is derived from criminal activity, or helping any person who is involved in such activities evade the legal consequences of their actions; (ii) concealing or disguising the illicit origin, source, location, disposition, movement or ownership of property knowing that such property is derived from criminal activity; or (iii) the acquisition, possession or use of property, knowing at time of receipt that such property is derived from criminal activity.

4.10 **Financing of Terrorism.** Financing of Terrorism is the provision or collection of funds by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are or will be used, in full or in part, in order to carry out acts of terrorism. For the avoidance of doubt, this includes without limitation the provision or collection of funds in contravention of the United Nations Security Council resolutions and sanctions applicable to the financing of terrorism.¹²

5. REQUIREMENTS

5.1 **Compliance.** Compliance with this Policy is the ethical and professional responsibility of every Covered Person. Each Covered Person which is an *entity* must ensure compliance with this Policy in its organization. Each Covered Person who is an *individual* is expected to lead by example by adhering to, respecting and communicating this Policy in connection with (i) her/his own activities, (ii) the activities of any employees s/he supervises, and (iii) where possible, in relation to the activities of Implementers and Counterparties with whom s/he works, at the outset of the relationship and on an ongoing basis thereafter.

5.2 **Ban on Prohibited Practices.** No Covered Person may, directly or indirectly, participate, aid, abet or conspire with another in the facilitation or commission of any Prohibited Practice in connection with Global Fund Activities. The Global Fund will make determinations of Prohibited Practices consistent with its administrative standard of evidence, of “balance of probabilities” and does not require that an act be completed or succeed in its purpose in order for the act to constitute a Prohibited Practice.¹³ As part of its response to Prohibited Practices, the Secretariat will maintain a sanctions process ensuring due process and accountabilities.

5.3 **Emphasis on Conflict of Interest.** Recognizing that conflicts of interest are often at the root of Prohibited Practices, the Global Fund includes prevention, detection and response to the failure to declare a conflict of interest as an obligation,¹⁴ in accordance with its Anti-Corruption Framework.

5.4 **Duty to Report.** The Global Fund, in its dealings with Covered Parties, applies and enforces a duty to report suspicion or knowledge of Prohibited Practices in Global Fund Activities.

¹¹ Property means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

¹² Accordingly, providing funds to or collecting funds for such a sanctioned entity or individual shall be deemed to constitute an intention that funds should be used, in full or in part, in order to carry out acts of terrorism.

¹³ For example, agreeing to accept a bribe (*quid pro quo*) from another party constitutes a corrupt practice, whether or not a payment or exchange of value is actually made or an improper purpose achieved. Similarly, to constitute Financing of Terrorism, it shall not be necessary that an act of terrorism be completed.

¹⁴ Obligations relating to Conflict of Interest are outlined, among other documents, in the Policy on Ethics and Conflict of Interest for Global Fund Institutions, approved 10-11 October 2002, as amended at the Eighteenth Board Meeting (GF/B18/8) and at the Twenty-Seventh Meeting (GF/B27/DPO5), and may be further amended from time to time.

Implementation of the duty to report will take into account the Whistle-blowing Policy¹⁵ and other appropriate instruments.

5.5 Protection Against Retaliation. The Global Fund implements and maintains processes to prevent, detect and respond to any retaliation against any Covered Person who, consistent with the Global Fund’s E&I Framework¹⁶ and the Whistleblowing Policy,¹⁷ either refuses in good faith to participate in the facilitation or commission of any Prohibited Practice, or who in good faith reports suspicion or knowledge of Prohibited Practices to the appropriate channels in the Global Fund.

5.6 Integrated Anti-Corruption Framework. The Global Fund implements, maintains, and enhances, as needed, a fit-for-purpose, risk-based Anti-Corruption Framework that enables adequate prevention, detection and response to Prohibited Practices within the Global Fund as well as in relation to all other Covered Parties. The Anti-Corruption Framework should be consistent with international best practices and be comprised, at a minimum, of the following elements:

- a. Tone at the Top at Governance and Management Levels
- b. Fraud and Corruption Risk Assessment
- c. Accountabilities & Incentives
- d. Policies, Procedures, & Controls (inter alia):
 - Contracts
 - Conflict of Interest Policies
 - Codes of Conduct
 - Due Diligence Processes
 - Risk Management Processes
 - Controls, Assurance & Oversight
- e. Training and Communication
- f. Whistleblowing and Investigations
- g. Response: Enforcement, Sanctions and Other Remedies
- h. Monitoring and Testing
- i. Reporting to Board

The Global Fund should also work with Implementers and Counterparties to develop appropriate, risk-based Anti-Corruption Frameworks.

5.7 Right to Access. The Global Fund must be able to directly oversee and verify all aspects of Global Fund activities, including for the purpose of preventing, detecting and responding to Prohibited Practices. To this aim, all Covered Parties must collaborate, participate and enable related activities, notably by granting unfettered access to the Global Fund and its representatives to any records, individuals and sites linked to Global Fund Activities. This will notably be done through contractual instruments making this duty applicable by the Secretariat to all Covered Parties.

¹⁵ See supra footnote 10.

¹⁶ See supra footnote 3, para 12: “The Global Fund commits to protecting those who identify and report, in good faith, violations of the organization’s policies or other acts of fraud, corruption, or dishonesty from retaliation or reprisal, including through the procedures set forth in the Whistleblowing Policies and Procedures approved by the Board.”

¹⁷ See supra footnote 10, para. 8: “The Global Fund will not tolerate any retaliation... against a whistle-blower or its relatives or associates by any person because the whistle-blower has made a disclosure under this policy in good faith, reasonably believing it to be true.”

6. GLOBAL FUND ACCOUNTABILITIES FOR OVERSEEING AND IMPLEMENTATING THE POLICY

6.1 **The Board.** The Board has ultimate ownership over this Policy, arising from the greater responsibility of the Board and its Committees to embody the highest standards of integrity against fraud and corruption. The Board delegates to its standing Committees oversight of matters relating to the Policy and its implementation as follows:

- The Charter of the Ethics and Governance Committee confers oversight authority with respect to the E&I Framework. Accordingly, the Ethics Officer shall report to the Ethics and Governance Committee on the implementation of this Policy, as part of regular updates under the E&I Framework.
- The Charter of the Audit and Finance Committee confers oversight and advisory authority with respect to the audits and investigations conducted by the Office of the Inspector General (OIG), risk management, fiduciary matters, internal controls and policies related to financial and operational oversight. Accordingly, where the implementation of this Policy may affect such matters, the OIG and/or Secretariat (as appropriate) shall report to the Audit and Finance Committee.

6.2 **The Executive Director.** The Executive Director is responsible for implementation of this Policy within the Global Fund's operations pursuant to authority delegated under Article 10.1 the Global Fund Bylaws.¹⁸ The Executive Director shall define roles and responsibilities within the Secretariat and for the Secretariat's management of relations with Implementers and Counterparties.

6.3 **The Inspector General.** The Inspector General has the responsibility to provide independent and objective assurance over the design and effectiveness of controls or processes in place to ensure ethical behavior in the Global Fund's operations and the activities it finances, including providing periodic reviews of this Policy and its implementation. Also, consistent with the Charter of the Office of the Inspector General, the OIG is responsible for undertaking investigations of alleged Prohibited Practices in Global Fund Activities for all Covered Parties. It is also tasked under the Whistle-blowing Policy¹⁹ to provide appropriate mechanisms for whistle-blowers to report all irregularities relating to Global Fund Activities.

6.4 **The Ethics Officer.** The Ethics Officer's responsibilities include providing an annual opinion to the Board on (i) the quality of the Global Fund's ethics and integrity systems, including anti-corruption controls, based on an assessment of key risk areas; and (ii) the extent to which the Global Fund has complied with ethics and integrity-related policies, codes, and requirements as well as (iii) playing a 2nd line of defense role in accordance with the Ethics and Integrity Framework.

7. REVIEWS

7.1 The Global Fund will, at regular intervals, make arrangements to assess compliance with this Policy on an organizational, divisional/departmental and program basis, in accordance with risk-based assessments, and will notably include the results of such assessments in reports to the

¹⁸ Bylaws of the Global Fund to Fight AIDS, Tuberculosis and Malaria, approved by the Board on 28 January 2016 (GF/B34/EDP07) and effective as of the conclusion of the 35th Board Meeting held on 26 – 27 April 2016, , as may be amended from time to time.

¹⁹ See supra footnote 10.

Global Fund Board and its standing committee(s) with delegated authority as to fraud or misuse of Global Fund resources and the E&I Framework.

7.2 In addition, this Policy may be updated to reflect evolving norms and practices among international financing institutions, changes to Global Fund policies or procedures or as and when the Global Fund deems necessary and appropriate to affirm its commitment against fraud and corruption. Amendments to this Policy may be recommended by the Secretariat for approval of the Ethics and Governance Committee, in consultation with the Audit and Finance Committee (or their respective successor committee(s) having delegated authority for such matters from the Board).