41st Board Meeting

Recoveries Report for the period ended 31 December 2018

GF/B41/16
15-16 May 2019, Geneva

Board Information

Purpose of the paper: This report is provided to the Audit & Finance Committee for review pursuant to a decision of the Board at its Thirty-Second meeting (GF/B32/DP04) and contains background information and an updated table regarding the status of non-compliant expenditures identified by the Office of the Inspector General (“OIG”) as of 31 December 2018, as well as recoverable amounts identified in the due course of grant management operations as of 31 December 2018. The OIG reports independently to the Board on the Secretariat's progress on matters related to recoveries.
Executive Summary

Context

During the second half of 2018, the total outstanding OIG recoverable balance, net of written commitments to repay, remained stable at US$ 1.9 million. The US$ 1.9 million total outstanding recoverable balance, net of written commitments, demonstrates resolution of 98% of the aggregate recoverable amount over time (unchanged from 30 June 2018). The 98% results from both an increase in resolution of recoveries case and a decreasing trend in new cases (both in terms of number of new cases and the amounts identified as non-compliant for each such case).

Turnaround times for new cases continue to improve compared to ‘legacy’ cases, i.e., pre-2014. Of the 10 open OIG cases, only 1 case dates back to pre-2014. The improvement with respect to legacy cases reflects the more rigorous approach to recoveries referred to in previous reports with the Global Fund seeing considerable benefits: recoverable funds are being returned more quickly than was the case pre-2015. In the last two quarters, the Secretariat had five new cases amounting to US$ 1.87 million, with three of these cases having been closed before 31 December 2018. Of the outstanding recoverable amount related to these new cases, approximately US$ 1.1 million relates to Zambia, for which the Secretariat has received a letter from the Ministry of Health indicating that they will reimburse the full amount to the Global Fund by no later than 31 October 2019.

The non-OIG aggregate outstanding balance amounted to US$ 14.3 million. This amount is distributed amongst 55 grant implementers in 33 countries with a median recoverable balance of US$ 58,653.

Good progress continued in early 2019, and by January 31st, the OIG aggregate outstanding balance amounted to US$ 1.4 million, representing resolution of 99% of aggregate recoverable amounts; and the non-OIG aggregate outstanding balance amounted to US$ 13.4 million.

There are no specific actions required for Secretariat, OIG, Board or Committees emanating from this report.
What is the topic of this update?

1. The Global Fund is fully committed to the principles of transparency and accountability. To fulfill this commitment, the Global Fund works, through its risk management and assurance processes, to expose irregularities and misuse of resources. Key measures are dedicated towards prevention but where irregularities or misuse have materialized, action is taken to address the underlying weaknesses and seek recoveries as appropriate.

2. The Global Fund maintains a zero-tolerance approach to fraud and corruption and aims to take swift and appropriate action when cases of misuse of funds are identified. The Global Fund will continue to ensure that all identified irregularities are communicated responsibly and in a timely manner to the Board and to other stakeholders.

3. Reports on amounts identified as compromised by various compliance issues and on the Secretariat’s efforts to seek refunds from recipients should be read in full awareness of the context and broad environment within which the Global Fund operates. Specifically, the Global Fund works in countries where governance, programmatic and oversight capacities are often weak, which carries inherent financial and programmatic risks.

What is the current status?

OIG Recoverable Amounts

4. When the OIG publishes audit or investigation reports that include the identification of non-compliant expenditures, the Secretariat identifies an appropriate amount to recover, taking into account the Global Fund’s legal right to recover, Global Fund policies and procedures, the financial loss to the program, relevant business and political implications, and the specific facts of the case, and engages in a process to seek recovery of such amount. All OIG recoverable amounts are approved by the Executive Director, upon the recommendation of the Recoveries Committee.

5. With respect to open OIG investigation reports, which are reflected in the amounts in Tables 1 - 2, the Secretariat uses as a starting point the proposed recoverable amount indicated by the OIG in the investigation reports rather than the total non-compliant amount, given that the total non-compliant amount includes amounts that may not be recoverable because, for example, the associated services or goods have been delivered to the grants. The historical difference between total non-compliant expenditures and the proposed recoverable amounts identified in OIG investigation reports from March 2009 through 31 December 2018 amounted to US$ 43.4 million. Specifically, for the second half of 2018, the total non-compliant expenditures amounted to US$ 1,872,476, of which there was a difference of US$ 175,818 between the total non-compliant expenditures identified in OIG investigation reports and the proposed recoverable amounts. This difference of US$ 175,818 is a result of the Global Fund having recovered the amount earlier on.

6. As OIG audit reports typically do not include a proposed recoverable amount, the Secretariat, with input from the OIG, determines the appropriate recoverable amount based on the content of the OIG audit report. This recoverable amount is then presented to Recoveries Committee’s review and subsequent recommendation to the Executive Director for approval.

7. During the six-month period ended 31 December 2018, there were five new cases that were presented to Recoveries Committee with an aggregate recoverable amount of approximately US$ 1.87 million. Of this amount, the Papua New Guinea case represented US$ 175,818, the Zambia case represented US$ 1,064,788, the Eswatini case represented US$ 26,701, the Nigeria case represented US$ 63,580 and the South Sudan case represented US$ 541,589.
8. As of 31 December 2018, there are two OIG investigation reports pending presentation to the Recoveries Committee: Guinea for US$ 114,366, and the Country Coordinating Mechanism Mozambique for US$ 26,020 (of which US$ 1,433 has already been reimbursed).

9. During the second half of 2018, further good progress was made: US$ 3.1 million was recovered and credited to the Global Fund’s bank accounts, relating to cases for which demand letters were sent as well as cases subject to Reimbursement Protocols. Of those cases with an aggregate recoverable amount of US$ 18.3 million that were closed in the second half of 2018, it is important to note that US$ 1.5 million in cash was actually received during the same period. Since the inception of the recoveries process, a total amount of US$ 86.4 million has been recovered and written commitments for a further US$ 6 million have been obtained.

10. The total outstanding recoverable balance, net of written commitments to repay, remained unchanged at US$ 1.9 million¹.

11. The US$ 1.9 million total outstanding recoverable balance, net of written commitments, demonstrates resolution of 98% of the aggregate recoverable amount over time (up from 95% as of 31 December 2017). The 98% results from both an increase in resolution of recoveries case and a decreasing trend in new cases.

12. Graph 1 below illustrates the evolution of the total amount deemed recoverable (all cases) and the net recoverable outstanding amounts for the previous five years.

¹ The Secretariat notes that in an OIG audit report: Limited scope review of the Secretariat’s Recoveries Report for the period up to 31 December 2015, dated 30 August 2016, the OIG indicated that the total outstanding recoverable balance as of 31 December 2015, net of written commitments to repay, that the OIG was able to verify amounted to US$ 39.1 million while the Secretariat-reported amount was US$ 38.2 million. The discrepancy results from a difference of US$ 1.0 million in the gross recoverable amount that the OIG was able to verify and a difference of US$ 1.9 million in the amount the OIG was able to verify as recovered. The Secretariat is working with the OIG to reconcile the figures but for the purpose of this report, the Secretariat is basing the figures on the Secretariat-reported amounts.
13. Turnaround times for new cases continue to improve compared to ‘legacy’ cases, i.e., pre-2014. The improvement with respect to legacy cases reflects the more rigorous approach to recoveries referred to in previous reports and the Global Fund is seeing considerable benefits: recoverable funds are being returned more quickly than was the case several years ago.

14. Recoverable amounts are recorded in the Global Fund’s financial statements in accordance with International Financial Reporting Standards (IFRS). The net recoverable amounts in this report may be different from those presented in the financial statements due to the accounting method adopted to comply with the requirements of IFRS. For example, the OIG may release a report that is promptly reflected in this report but converting the findings into a demand letter (which is then booked in the financial statements) may not take place until after the reporting period and may also reflect adjustments based on recommendations by the Recoveries Committee and approval by the Executive Director. It should be noted that the financial statements reporting on losses and recoveries uses the exact same underlying data as that presented within the tables below, and that a formal reconciliation process is implemented and validated through the Recoveries Committee.

**Non-OIG Recoverable Amounts**

15. The Secretariat is in the process of finalizing the development and implementation of an automated process to centrally capture and report on confirmed non-compliant expenditures. During December 2018, the majority of the development of the automated process was completed and the Secretariat expects to be able to formally launch the automated process in the Grant Operating System (GOS) in the first quarter of 2019. Consequently, the data as of 30 June 2019 data to be included in the next Recoveries Report is expected to be sourced from this automated process.

16. It is expected that this will be the last Recoveries Report whereby the Secretariat implemented a manual process to centrally capture and report on confirmed non-compliant expenditures that arise in the ordinary course of grant management. Non-OIG recoverable amount data is collected each quarter from Country Teams and offers a snapshot of a rolling total. In the event that they are not resolved within specified timeframes these instances are reported to the Recoveries Committee for their review and recommendation in accordance with guidance provided to Country Teams.

As of 31 December 2018, the aggregate outstanding balance due amounted to US$ 14.3 million and is distributed across 33 countries (55 Principal Recipients).

17. Of this US$ 14.3 million, there are four Principal Recipients that account for approximately 52.1% of the total outstanding amount due, as follows:

- Ministry of Health (Ghana): US$ 2.3 million (16.4%)
- National Agency for the Control of AIDS (Nigeria): US$ 1.9 million (13.3%)
- Ministry of Health (Mozambique): US$ 1.8 million (12.3%)
- Ministry of Health (DRC): US$ 1.4 million (10.1%)

18. As of 31 December 2018, of grants that have outstanding non-OIG recoverable amounts, the average amount outstanding per grant is US$ 238,870 but it should be noted that this figure is influenced by the aforementioned amounts listed in paragraph 20. As such, closer attention is warranted on the median amount, which is US$ 58,653.

19. Graph 2 below illustrates the evolution of the total amount deemed recoverable (all cases) and the net recoverable outstanding amounts for the previous five years.
2:1 Allocation Reduction

19. The second half of 2018 has also seen three further applications of the so-called “2-for-1 allocation reduction” method to resolve particularly difficult cases, where all reasonable recovery approaches have failed to produce results. Allocation reductions represent a means available to the Secretariat of resolving exceptionally difficult cases where all means of recovery have been considered exhausted. Upon approval by the Executive Director the country’s allocation is reduced by a factor of 2:1, being two units of allocation reduction for every one unit of recoverable amount.

20. There are a number of reasons why the allocation reduction approach is only applied as a last resort. For one, there is a negative impact on the country’s available budget to fight the three diseases. Additionally, the misused funds with respect to which the reduction is applied are not actually recovered. As a result, there may be less accountability and ‘consequence’ for an implementer who misspent funds.

21. Accordingly, it is important that there is adequate visibility for the cases in which it was concluded that there was no better option but to apply the 2-for-1 allocation reduction approach, which is why the allocation reductions that occurred during the period ended 31 December 2018 are described in the following paragraphs.

22. During the period ended 31 December 2018, 2-for-1 allocation reductions were used to resolve US$ 956,320 of outstanding recoverable amounts through three cases. In regard to these cases, the Recoveries Committee reached the conclusion that all other reasonable options for recovery and forms of leverage had been considered and exhausted, and deemed the programmatic impact of the allocation reduction to be limited. These allocation reduction recommendations were approved by the Executive Director.

Nepal (Non-OIG)
As originally noted in the Recoveries Report for the period ended 31 December 2017, Global Fund reviews initially uncovered US$298,697 of non-compliant expenditures under three Nepal grants, all of which were implemented by national programs under Nepal’s Ministry of Health and Population (MoHP), who no longer serve as Principal Recipients. The Global Fund determined it had exhausted all options for recovery of this amount, and therefore approved a 2:1 reduction to Nepal’s 2017-2019 allocation in an amount of US$597,394. Subsequently, the MoHP provided new information and documentation that included proof certain funds had been returned to the relevant program accounts and providing support for expenditures previously considered non-compliant, based on which the Global Fund approved a reduction of US$233,593 to the recoverable amount outstanding, for a revised outstanding amount of US$65,104. Given the continuing low likelihood of cash recovery, the Global Fund therefore approved the application of a revised allocation reduction of US$130,208 to Nepal’s 2017-2019 allocation, and this revised item is therefore being included.

Ghana (OIG)

An OIG investigation report released in 2014 found irregularities in the procurement process of condoms by the Principal Recipient Ministry of Health (“MoH”). The condoms at issue were also found to be defective. The total loss to the grant as a result of this procurement was found to be US$3,840,003. In 2015, the MoH entered into an agreement to replace the condoms and to repay the recoverable amount in respect of any condoms not replaced. The agreement was partially implemented due to delays and poor coordination on the part of the MoH. Nevertheless, the Global Fund applied cash payments and in-kind contributions received from the MoH to this outstanding amount, reducing it to US$826,494. After exploring all options for recovery and forms of possible leverage, as well as in consideration of the length of time elapsed and the need to prioritize other pending matters such as the progressive implementation of the supply chain-related milestones from the agreement covering losses due to a central medical store fire, the Global Fund decided to apply a 2:1 allocation reduction in an amount of US$1,652,988 to Ghana’s 2017-2019 allocation.

Sri Lanka (Non-OIG)

Non-compliant amounts totaling US$64,722 relating to unbudgeted cost overruns for staff (US$28,054) dating back to 2014 under HIV grant SRL-S11-G13-H and unsupported provident fund and trust fund contributions (US$36,668) from the period between 2008 and 2010 under TB grant SRL-607-G07-T were identified by the Global Fund. Both grants were implemented by the Principal Recipient Ministry of Health, Nutrition and Indigenous Medicine (“MoHNIM”). Considering the Global Fund had exhausted all options for recovery and the low likelihood of any recovery from MoHNIM, it decided to apply a 2:1 allocation reduction in respect of Sri Lanka’s 2017-2019 allocation, for a total reduction of US$129,444. As noted in the Recoveries Report for the period ended 30 June 2016, the Global Fund had previously applied a reduction of US$2,929,292 to Sri Lanka’s 2014-2016 allocation, to address recoverable amounts outstanding from MoHNIM’s predecessor agency (in addition to from two non-governmental former Principal Recipients).

Post Script (Significant events occurring or expected after 31 December 2018)


25. In December 2018 the previous Government of the Democratic Republic of the Congo sent a letter signed by both the Minister of Health and the Minister of Finance to the Global Fund acknowledging that the Government would reimburse US$ 1,436,344 in Non-OIG non-compliant expenditures over the course of 2019.

26. In January 2019, the Republic of Mali signed a Reimbursement Protocol with the Global Fund for an aggregate amount of EUR 1,536,705.
Annexes

The following items can be found in Annex:

- Table 1 provides an overview as of 31 December 2018.
- Table 2 presents the detailed country-by-country data for OIG-reported open cases as of 31 December 2018.
- Fully resolved OIG-reported cases feature in Table 3 as of 31 December 2018.
- Table 4 presents a summary of recoverable amounts identified in the due course of grant management as of 31 December 2018.
Table 1: Overview of OIG recoverable amounts considered by the Recoveries Committee as of 31 December 2018

<table>
<thead>
<tr>
<th>Recoveries and other Adjustments</th>
<th>OIG Reported Figures</th>
<th>Management Adjustments</th>
<th>Amount deemed Recoverable</th>
<th>Written off</th>
<th>Allocation Reduction</th>
<th>Received</th>
<th>Net Still to Recover</th>
<th>Committed to Repay</th>
<th>Net after Commitments</th>
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<td>33,013,263</td>
<td>(3,382,905)</td>
<td>29,630,358</td>
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<td>(1,845,206)</td>
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<td>11,234,207</td>
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<td>(1,369,864)</td>
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<td>1,597,093</td>
<td>1,597,093</td>
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<td>(1,369,864)</td>
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<td>Cash recovery</td>
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<td>(1,369,864)</td>
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<td>Commitments recovered</td>
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<td>Net management adjustments</td>
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<td>(33,013)</td>
<td>(33,013)</td>
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<td>Write offs</td>
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<td>(777,486)</td>
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<td>(826,494)</td>
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<td>Add: New cases reported by the OIG during the period</td>
<td>1,872,476</td>
<td>(239,818)</td>
<td>1,632,658</td>
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<td>(175,818)</td>
<td>1,456,840</td>
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<td>Less: Cases closed after full resolution</td>
<td>(18,301,011)</td>
<td>1,776,882</td>
<td>(16,524,129)</td>
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<tr>
<td>Balance as at 31 December 2018</td>
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<td>(1,878,854)</td>
<td>14,705,874</td>
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<td>(6,733,244)</td>
<td>7,972,630</td>
<td>(5,978,410)</td>
<td>1,994,220</td>
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<td>Total closed cases (n=82)</td>
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<td>(37,430,101)</td>
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<td>Total all reported cases (n=92)</td>
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<td>(39,308,855)</td>
<td>115,040,638</td>
<td>(5,292,023)</td>
<td>(15,382,785)</td>
<td>(86,393,507)</td>
<td>7,972,630</td>
<td>(5,978,410)</td>
<td>1,994,220</td>
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Table 2: Recoveries Committee OIG cases with outstanding recoverable amounts as of 31 December 2018 - Dates provided below each country refer to the date the OIG report was published.

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Table 3: Fully resolved Recoveries Committee OIG cases as of 31 December 2018 – Dates provided below each country refer to the date the case was closed.

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Table 3 (continued): Fully resolved Recoveries Committee OIG cases as of 31 December 2018 – Dates provided below each country refer to the date the case was closed.

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The Global Fund 41st Board Meeting

Board Information - GF/B41/16

15-16 May 2019, Geneva

12/19
Table 3 (continued): Fully resolved Recoveries Committee OIG cases as of 31 December 2018 — Dates provided below each country refer to the date the case was closed.

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Note: The table continues with similar entries for various countries.
Table 3 (continued): Fully resolved Recoveries Committee OIG cases as of 31 December 2018 – Dates provided below each country refer to the date the case was closed.

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<th>Management Adjustments</th>
<th>Gross Recoverable Amount (in USD)</th>
<th>Written-Off (in USD)</th>
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Table 3 (continued): Fully resolved Recoveries Committee OIG cases as of 31 December 2018 – Dates provided below each country refer to the date the case was closed.

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Table 4 (continued): Recoverable amounts identified and submitted to the Recoveries Committee in the ordinary course of grant management operations outstanding as of 31 December 2018

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The Global Fund 41st Board Meeting
15-16 May 2019, Geneva
Board Information - GF/B41/16
17/19
Table 4 (continued): Recoverable amounts identified and submitted to the Recoveries Committee in the ordinary course of grant management operations outstanding as of 31 December 2018

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Notes to tables:

(1) Each OIG report leading to a recoverable amount is counted as a separate case, even if multiple reports apply to the same country.

(2) A written commitment is recognized as such once signed by a competent authority, in practice usually the Ministry of Health with co-signature by the Ministry of Finance.

(3) Adjustments by management include changes to the OIG-reported figures based on additional considerations, which may include review of additional supporting documentation, retroactive approval of expenditures reported by the OIG as non-compliant where sound rationales exist, an evaluation of the Global Fund’s available legal rights and remedies, and amounts identified by the Secretariat as recoverable in addition to the amounts reported by the OIG. Such adjustments are made in consultation with the OIG.

(4) The amount deemed recoverable represents the maximum amount to be recovered based on the deliberations of the Recoveries Committee and the Executive Director and latest information available. The amounts include considerable sums which are subject to further analysis or explanation by the Secretariat and validation by the OIG. Part or all such amounts may be shifted to the management adjustments column following further deliberations of the Recoveries Committee and the Executive Director. For cases not yet fully resolved, the amounts in the ‘written off’, ‘recovered’ and ‘commitment to repay’ columns may not fully represent the amount ultimately recovered, as recovery work is still ongoing on a portion of the amount shown as ‘net deemed recoverable’.

(5) Allocation reductions represent a means of resolving exceptionally difficult cases where all means of recovery have been exhausted. Upon approval by the Executive Director, a country’s allocation may be reduced by a factor of 2:1, being two units of allocation reduction for every one unit of recoverable amount. The amounts in the table represent the recoverable amounts written off as a result of the application of allocation reductions.