



---

**Report of the Governance and Partnership Committee**

**ANNEX 7**

**Explanatory Document on Conflict of Interest**

**Introduction:**

At its Fourth meeting, the Board adopted a revised Conflict of Interest Policy (COI Policy) including a disclosure statement to be signed by all individual mentioned in the said Policy. The Board furthermore asked the Governance and Partnership Committee to address additional issues on the Conflict of Interest Policy. It also requested the Committee to establish operational procedures for the Conflict of Interest or Ethics Committee<sup>1</sup>, as well as terms of reference for the Ethics Official.

This report addresses these issues in Parts I and II, highlights the points raised by the Governance and Partnership Committee in Part III and proposes recommendations in Part IV.

**Part I: Additional issues on the Conflict of Interest Policy raised by Board members at the Fourth Board meeting.**

1. *gifts*: the prohibition concerning gifts should also include the giving of gifts, rather than just the acceptance thereof. This provision is included in section 6 of the amended Conflict of Interest Policy (COI Policy) submitted to the Governance and Partnership Committee.
2. *need to clearly define roles and responsibilities for the agents responsible for ethics*: the current COI Policy refers to the creation of a Conflict of Interest Committee composed of three Board members and assisted by one Ethics Official to be chosen by the Executive Director among the Secretariat staff. It does not provide for agents responsible for ethics. The roles of the members of the Ethics Committee, as well as the terms of reference for the Ethics Official, are described in proposed Ethics Committee Rules and Procedures submitted to the Governance and Partnership Committee (see Part II below).
3. *development of an LFA Conflict of Interest Policy*: an LFA Conflict of Interest Policy was developed and presented to the Governance and

---

<sup>1</sup> It is proposed that the name of the Conflict of Interest Committee be changed to Ethics Committee. This term will be applied in the present document. The changes to the COI Policy resulting therefrom have been incorporated into the proposed amended COI Policy.

Partnership Committee and MEFA Committee and endorsed by them. However, the procedure in the case of a conflict foresees the intervention of the Ethics Committee in cases where the COI cannot be settled by the Global Fund and the LFA concerned. Seeing as how the members of the Ethics Committee have not yet been designated, approval of the LFA Conflict of Interest Policy by the Board must be postponed.

## **Part II: Ethics Committee Rules and Procedures**

1. On 31 March, the Executive Director appointed the Senior Legal Counsel of the Global Fund as Ethics Official. Based on the approved COI Policy, the proposed Ethics Committee Rules and Procedures were submitted to the Governance and Partnership Committee, together with some questions and issues raised by the application of the COI Policy and the Disclosure Statement. The Disclosure Statement, as approved by the Board, was translated into French. In the meantime, only a few Statements, fully completed, have been received by the Ethics Official.

## **Part III: Issues raised by the application of the current COI Policy**

1. The following basic issues were raised, abridged responses, to be developed later, are indicated in italics:

a. Is it tenable that the members of the Ethics Committee be members of the Board? Would it not be more judicious to foresee a completely independent Ethics Committee?

*Both alternatives, with their respective advantages and disadvantages, must be studied further. A neutral organism remains to be found.*

b. What confidentiality is provided to data processing resulting from disclosure statements and the settlement of COI problems? Is the protection of personal data, as required by Swiss law, sufficiently taken into consideration?

*The COI Policy provides amongst other things that the Disclosure Statement shall remain confidential and shall be available for inspection by the designated Ethics Official at the Secretariat and, only as appropriate, by members of the Board. It further mentions that the names of Covered Individuals with a conflict of interest treated at a meeting of the Board shall be recorded in the minutes of the meeting.*

*According to Swiss law, personal data (which means all information related to an identified and/or identifiable person) must be treated as confidential, unless the person concerned gives his/her consent to publication. Such a consent clause does not explicitly exist in the current Disclosure Statement and should be added.*

c. What are the powers of the Ethics Committee?

*According to the COI Policy, the Ethics Committee may*

- i. decide, on disclosure grounds, the exclusion of the concerned individual in any discussion of the issue that has given rise to the conflict of interest,*
- ii. where the Ethics Committee finds, or has reasonable cause to believe, that a concerned individual has failed to disclose a conflict of interest, inform the concerned individual about the grounds of the alleged failure to disclose, provide him/her with the opportunity to explain the alleged failure of disclosure and, if it deems necessary, notify the Foundation Board.*
- iii. decide to bring a case of conflict of interest to the entire Board*

*Further powers of the Ethics committee have been developed in the proposed Rules and Procedures thereof.*

d. Are the disclosure statement and the explanation thereof applicable in practice?

*The disclosure statement and instructions thereto are very detailed, also from a financial point of view. A simplification would be desirable.*

2. The proposed Ethics Committee Rules only being the application of the COI Policy adopted by the Board at its Fourth Board meeting, the development of the above-mentioned answers to the issues must be handled on the level of the COI policy and not the Ethics Committee Rules. For that reason, the Governance and Partnership Committee recommends that the COI Policy be reviewed and Ethics Rules and Procedures adapted in function of this review.

#### **Part IV: Conclusions – Recommendations**

The Committee recommends that the Board:

1. **Takes note** of the explanatory document on the principal issues raised by the COI policy for information at the Fifth Board meeting.
2. **Requests** the Committee to work with the newly appointed Ethics Official to amend the COI Policy and Ethics Committee Rules for presentation and approval at the Sixth Board meeting.