



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

Fourteenth Board Meeting
Guatemala City, 31 October - 3 November 2006

GF/B14/6

ANNUAL REPORT OF THE ETHICS COMMITTEE

Outline: This report summarizes the activities of the Ethics Committee since its last report to the Board at the Eleventh Board Meeting in September 2005. The report also proposes one decision point for the Board as a result of its work over this period.

Decision Point:

1. The Board amends the Policy on Ethics and Conflict of Interest for Global Fund Institutions by inserting the following as section 8, and re-numbering the policy accordingly:

8. *Uncompensated Involvement of an Associated Person*

An associated person of any employee of the Secretariat shall not be engaged to carry out work without compensation either on or outside the Global Fund premises.

Part 1: Introduction

1. The Ethics Committee (EC) met eight times by teleconference on the following dates: 8 November 2005; 20 February; 10 and 31 March; 22 August; 5 and 27 September; and 3 October 2006.¹ The minutes of these meetings are available on the Ethics Committee section of the Global Fund website.

Part 2: Secretariat Secondment Practice

1. At the Thirteenth Board Meeting, the Board asked the EC to undertake a review of the Secretariat's secondment policy and associated conflict of interest issues.² In parallel to this review, the Secretariat's Human Resources Team (HR Team) also conducted a review of the Secretariat's secondment arrangements as a requirement of the 'Management Action Plan'.³ In doing so, the HR Team assessed World Health Organization's (WHO) policies and procedures for the secondment of employees to the WHO from organizations both within the United Nations Common System and from the private sector.⁴ The HR Team concluded that such policies and procedures may be regarded as best practices because they provide detailed guidelines for the identification and treatment of a conflict of interest, both actual and potential.

2. On the basis of these findings, and following discussions with the EC, the HR Team will seek approval from the Executive Management Team⁵ ("EMT") of the Secondment Guidelines which adopt WHO's secondment policies and procedures with one adaptation, being the inclusion of an additional requirement that the Global Fund's Legal Unit review all secondment proposals, and provide recommendations for action by the Executive Director. The proposed adaptation shall require WHO approval, and inclusion in the Log of Administrative Adaptations and Exceptions for the Global Fund kept in relation to the Administrative Services Agreement (ASA) between WHO and the Global Fund.⁶

3. The EC has requested the Secretariat to provide a bi-annual report of all secondment staff appointments, highlighting those which presented a potential conflict of interest and outlining the remedial action taken by the Secretariat.

Part 3: Post-Employment Regulation of Secretariat Staff

1. At the Twelfth Board Meeting, the Board asked the EC to develop a policy that covers conflict of interest issues that arise in relation to former staff members of the Global Fund.⁷ In developing this policy, the EC reviewed the post-employment policies of various governments and other publicly-funded institutions and post-employment restrictions within the United Nations Common System. It also researched the enforceability of post-employment restrictions in a variety of common law jurisdictions and held discussions with the HR Team.

¹ The members of the Ethics Committee are: Professor Sheila Dinoshe Tlou (Chair, East and Southern Africa); Dr. Brian Brink (Vice-Chair, Private Sector); Dr. Sigrun Møgedal (Point Seven); Ms. Lucy Ng'ang'a (NGO Developing); Mr. Javier L. Hourcade Bellocq (Communities); Private Foundations to be determined. Professor Willem Landman, as the appointed Ethics Advisor participates in Ethics Committee meetings.

² GF/B14/2 p.36.

³ The Management Action Plan (2005) was prepared by the Secretariat in response to the Report of the WHO Office of Internal Oversight Services (2005).

⁴ Section 4, WHO Staff Rules; Section 5, WHO Manual; Guidelines on Interaction with Commercial Enterprises to Achieve Health Outcomes, EB 107-20, 23 January 2001; and Inter-Agency Mobility Accord, United Nations System Chief Executives Board for Coordination, November 2005.

⁵ HR Team's target date to present the Secondment Guidelines to the Executive Management Team is 30 October 2006.

⁶ Section 3, Administrative Service Agreement (2002).

⁷ GF/B13/2 p.27.

2. The Global Fund has mechanisms that regulate the activities of former staff members both prior to and post-separation. The pre-separation mechanisms are embodied in the Policy on Ethics and Conflict of Interest for Global Fund Institutions (the "COI Policy"),⁸ and the Regulation 1.6 of the WHO Staff Rules and Regulations. The application of the COI Policy which applies to current, but not to former staff members, would prevent a staff member from using their position to take actions that may influence their prospects of future employment/business ventures, or that of a family member.⁹

3. Regulation 1.6 of the WHO Staff Rules and Regulations provides that, "*Staff members shall exercise the utmost discretion with regard to all matters of official business. They shall not communicate to any person any information known to them by reason of their official position which has not been made public, except in the course of their duties or by authorization of the Director General. At no time shall they in any way use to private advantage information known to them by reason of their official position. These obligations do not cease with separation from service.*" Accordingly, the regulation restricts disclosure of sensitive or confidential information.

4. The EC supports the Global Fund's post-employment policies/procedures; together the two provisions ensure adequate protection against inappropriate use of confidential information by current and former staff members in relation to their own future employment/business ventures.

Part 4: Conflict of Interest Considerations Arising out of the IOS Report¹⁰

1. At the Twelfth Board Meeting the Board asked the EC to review the Secretariat's Action Plan on the involvement of family members in the Global Fund's activities and make recommendations to strengthen the Global Fund's conflict of interest policy.¹¹ The EC has reviewed the Secretariat's Action Plan, prepared by the HR Team, which concludes that the employment of family members is adequately covered by provisions of the WHO Staff Rules and Regulations.¹²

2. For the non-compensated involvement of family members in the business of the Global Fund, the Secretariat's Action Plan recommended that the EC may consider including, a provision in the Global Fund's COI Policy. The WHO policies and procedures for family member 'volunteers'¹³ (not detailed in the IOS Report), prohibits this type of involvement and the EC considers that this type of involvement should be guided by the highest standards of integrity and professional behavior to safeguard the reputation of the Global Fund.

3. The EC has determined, however, that to effectively address the issue it recommends that the Board adopt the following decision point to clarify the non-compensated involvement of family members in the business of the Global Fund.

⁸ GF/B6/2

⁹ Sections 3 and 4.

¹⁰ WHO Office Oversight Service Report (2005) identified improper involvement of a family member in the Global Fund's business.

¹¹ GF/B13/2 p.27.

¹² Section 4, 'Recruitment and Appointment' WHO Staff Rules.

¹³ Section 111.16.2, 'Interns and Volunteers' WHO Manual.

Decision Point:

1. The Policy on Ethics and Conflict of Interest for Global Fund Institutions is amended by inserting the following as section 8, and re-numbering the policy accordingly:

8. Uncompensated Involvement of an Associated Person¹⁴

An Associated Person of any employee of the Secretariat shall not be engaged to carry out work without compensation either on or outside the Global Fund premises.

There are no material budgetary implications for this decision point.

Part 5: Office of the Inspector-General Hotline Procedures

1. At the Thirteenth Board Meeting the Board approved the Whistle-blowing Policy, which serves as the basis of the reporting hotline of the Office of the Inspector-General (“OIG”).¹⁵ The Whistle-blowing Policy gives individuals the opportunity to report allegations of misconduct in relation to the administration or operations of the Global Fund. Such individuals may make such allegations anonymously or may choose to confidentially disclose their name for the purposes of follow-up. The Whistle-blowing Policy makes it explicit that, whatever the mode of reporting, all reports will be provided to the OIG to allow independent treatment and follow-up by a governance unit of the Global Fund with direct-line reporting to the Board.

2. The OIG’s reporting hotline will be serviced internally, and outsourcing will be considered after a trial period of approximately six months. It is intended that the experiences gained during the trial period are to inform the contracting/tender process for an external service provider. The EC notes that although “best practice” does not preclude an internal reporting hotline, it questions the robustness of OIG’s internal procedures in reviewing those of other international organizations with comparable funds under management. In addition, the capacity of an internal service to cover the Global Fund’s country operations in terms of language and multilingual report processing is limited.

3. The EC has recommended that the OIG should, without delay, investigate what services can be provided externally as against those which may be provided internally and report back to the EC as soon as possible.

Part 6: Filing of Declaration of Interest Forms

1. The EC continues to oversee the annual process of filing Declaration of Interest (“DOI”) Forms and the annual circulation of the Policy on Ethics and Conflict of Interest for Global Fund Institutions to all “Covered Individuals” covered by the COI Policy.¹⁶ The names of those “Covered Individuals” (other than Secretariat employees)¹⁷ who have not filed DOI Forms prior to the Fourteenth Board Meeting will be provided to Board members at that meeting.

¹⁴ Section 2.

¹⁵ Whistle-blowing Policy for Secretariat and Governance Bodies of the Global Fund; and In-Country Whistle-blowing Policy. GF/B13/6.

¹⁶ Section 9.

¹⁷ Section 2.

Part 7: Conflict of Interest Determinations

1. The EC has considered a request for a waiver of the one-year “cooling off” period required of individuals who have served in governance structures of the Global Fund and now wish to seek employment in the Secretariat.¹⁸ The case in question, with the Ethics Committee’s viewpoint, is being referred to the Chair and Vice-Chair of the Board for determination of the most appropriate resolution.

This document is part of an internal
Deliberative process of the Global Fund
and as such cannot be made public.
Please refer to the Global Fund’s
Documents Policy for further guidance.

¹⁸ Section 7.