



Investing in our future

The Global Fund

To Fight AIDS, Tuberculosis and Malaria

**Fifteenth Board Meeting
Geneva, 25-27 April 2007**

GF/B15/9

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 2005.¹

The report also proposes two decision points for the Board as a result of its work over this period.

Decision Points:

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.

There are no material budgetary implications for this decision.

2. The Board requests the Office of the Inspector-General to implement an independent, confidential and technically robust reporting hotline to support the Whistle-blowing Policy for Secretariat and Governance Bodies of the Global Fund; and In-Country Whistle-blowing Policy as a matter of urgency.

There are no material budgetary implications for this decision.

¹ The Report was to be presented at the Fourteenth Board Meeting, however was deferred due to time constraints.

Part 1: Introduction

1. The Ethics Committee met ten times on the following dates: 8 November 2005; 20 February; 10 and 31 March; 22 August; 5 and 27 September; 3 and 31 October; and 2 November 2006 and 6 February 2007.² 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 Ethics Committee to undertake a review of the Secretariat's secondment policy and associated conflict of interest issues.³ 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'.⁴ 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 the private sector.⁵ 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 Ethics Committee, the HR Team shall seek approval from the Executive Management Team⁶ ("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 Service Agreement between WHO and the Global Fund.⁷

3. The Ethics Committee 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. The Ethics Committee shall receive the first report in June 2007.

Part 3: Post-Employment Regulation of Secretariat Staff

1. At the Twelfth Board Meeting, the Board asked the Ethics Committee to develop a policy that covers conflict of interest issues that arise in relation to former staff members of the Global Fund.⁸ In developing this policy, the Ethics Committee reviewed the post-employment policies of various governments and other publicly-funded institutions and post-employment restrictions within the

² 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); Dr. Jacob Gayle (Private Foundations). Professor Willem Landman, as the appointed Ethics Advisor participates in Ethics Committee meetings. The Ethics Committee also conducts its activities through email.

³ GF/B14/2 p.36.

⁴ The Management Action Plan (2005) was prepared by the Secretariat in response to the Report of the WHO Office of Internal Oversight Services (2005).

⁵ 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.

⁶ HR Team's target date to present the Secondment Guidelines to the Executive Management Team is 30 October 2006.

⁷ Section 3, Administrative Service Agreement (2002).

⁸ GF/B13/2 p.27.

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.

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"),⁹ 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.¹⁰

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 Ethics Committee 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 Report¹¹

1. At the Twelfth Board meeting the Board asked the Ethics Committee 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.¹² The Ethics Committee 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.¹³

2. For the non-compensated involvement of family members in the business of the Global Fund, the Secretariat's Action Plan recommended that the Ethics Committee may consider including, a provision in the Global Fund's COI Policy. The WHO policies and procedures for family member 'volunteers'¹⁴ (not detailed in the IOS Report), prohibits this type of involvement and the Ethics Committee 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 Ethics Committee 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.

Decision Point 1:

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:

⁹ GF/B6/2

¹⁰ Sections 3 and 4.

¹¹ WHO Office Oversight Service Report (2005) identified improper involvement of a family member in the Global Fund's business.

¹² GF/B13/2 p.27.

¹³ Section 4, 'Recruitment and Appointment' WHO Staff Rules.

¹⁴ Section 111.16.2, 'Interns and Volunteers' WHO Manual.

8. Uncompensated Involvement of an Associated Person¹⁵

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 13th 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”).¹⁶ 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. In October 2006, the OIG advised the Ethics Committee that the reporting hotline was to be serviced internally, with outsourcing to be considered after a trial period of approximately six months. The Ethics Committee advised the OIG that although ‘best practice’ did not preclude an internal reporting hotline, it questioned 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. The Ethics Committee recommended that the OIG should, without delay, investigate what services could be provided externally as against those which may be provided internally and report back to the Ethics Committee as soon as possible.

3. In January 2007, the OIG advised the Ethics Committee that an external service provider had been contracted, however, in April the Ethics Committee was informed that the service provider shall not commence providing reporting hotline services until the OIG has adequate staff, and leadership. The Ethics Committee has significant concerns that the reporting hotline, which is a critical element for the implementation of the Whistle-Blowing Policy and important to ensure the good governance of the Global Fund, is not being satisfactorily implemented despite the approval of the Whistle-Blowing Policy by the Board in April 2006. Accordingly, the Ethics Committee recommends that the Board should request the OIG to implement an independent, confidential and technically robust reporting hotline to support the Whistle-Blowing Policy as a matter of urgency.

Decision Point 2:

The Board requests the Office of the Inspector-General to implement an independent, confidential and technically robust reporting hotline to support the Whistle-blowing Policy for Secretariat and Governance Bodies of the Global Fund; and In-Country Whistle-blowing Policy as a matter of urgency.

There are no material budgetary implications for this decision point.

¹⁵ Section 2. COI Policy.

¹⁶ Whistle-blowing Policy for Secretariat and Governance Bodies of the Global Fund; and In-Country Whistle-blowing Policy. GF/B13/6 (the “Whistle-blowing Policy”).

Part 6: Filing of Declaration of Interest Forms

1. The Ethics Committee 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.¹⁷ The names of those ‘Covered Individuals’ (other than Secretariat employees)¹⁸ who have not filed DOI Forms prior to the Fifteenth Board Meeting will be provided to Board members at that meeting.

Part 7: Conflict of Interest Determinations

1. The Ethics Committee considered one conflict of interest issue during the reporting period and this was referred to an Executive Session of the Board for determination.

This document is part of an internal deliberative process of the Fund and as such can not be made public. Please refer to the Global Fund’s documents policy for further guidance.

¹⁷ Section 9.

¹⁸ Section 2.