

Thirty-Second Board Meeting Losses and Recoveries Report

LOSSES AND RECOVERIES REPORT**as of and for the six months ended June 30, 2014****report date: October 9, 2014****Purpose:**

1. This paper is provided for information to the Board Board pursuant to a decision of the Board at its 23rd meeting (GF/B23/DP28) and contains background information and an updated table regarding the status of problematic expenditures identified by the Office of the Inspector General.
2. It presents a brief introduction and provides the context within which the recovery-related processes, from the identification of amounts by the OIG to the actual recovery, are being handled by the Secretariat. A cover letter from the OIG is included on page 2.
3. A separate document outlaying the roles of the Secretariat and the Office of the Inspector General in reporting and following up on issues of misuse of funds is being presented to the Board to revise Decision Point GF/B23/DP28 on “Communication of Losses and Recoveries arising from OIG Audits and Investigations”.

22 October 2014

Cover Letter from the Inspector General

As previously noted in my cover letter to the last Losses and Recoveries Report in February 2014, and subsequently discussed with the AEC members at their meeting, the Board decision (DP28) for a joint report on Losses and Recoveries does not sit neatly with the independence or effectiveness of the OIG. The OIG's assurance function must be able to conduct an independent audit of the end-to-end recoveries process without the perception a joint report creates that the OIG is part of the process.

Consequently, I am pleased to see a revision to this Decision Point will be proposed by the AEC to the Board for decision at its next meeting. The new Decision Point proposes that the Secretariat produces a Recoveries Report, while the OIG provides separate assurances on the recoveries process through regular reporting on the implementation progress of agreed management actions, and by reviewing recoveries related activities as part of its audit plan as agreed with the AEC.

In this manner, the AEC, FOPC and the Board will continue to receive progress updates and independent assurances over the recoveries process and the figures in the Recoveries Report. Notably, as part of its routine follow-up on agreed management actions, the OIG has completed an analysis of all cases relating to OIG reports submitted to the Recoveries Committee since it started its work in October 2012. This analysis was presented to the AEC at its last meeting and will be summarized in our progress update to the Board.

INTRODUCTION

- 1 The Global Fund is fully committed to the principles of transparency and accountability. To fulfill this commitment, the Fund is working 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 takes 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 This paper is provided pursuant to a decision of the Board at its 23rd meeting (GF/B23/DP28) that requires both the Secretariat and the Office of the Inspector General (“OIG”) under the oversight of the Audit and Ethics Committee to jointly publish, before each regularly scheduled meeting of the Board, a Losses & Recoveries Report containing background information on problematic expenditures identified by the Office of the Inspector General and related recovery efforts.¹
- 4 Reports on amounts identified as compromised by various compliance issues by the OIG 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 Fund works in countries where often governance, programmatic and oversight capacities are weak and this carries inherent financial and programmatic risks.
- 5 For the first time in this report, a distinction is being made between ‘legacy’ cases, published before 1 January 2014, and later cases. This allows the Board to have a clear view on the progress made by the Secretariat on the recovery of legacy cases, which tend to be more difficult to resolve compared to those to which the new Secretariat recoveries process applies.

METHOD AND PROCESS FOR DETERMINING RECOVERABLE AMOUNTS

- 6 Under the Board decision on communication of losses and recoveries (GF/B23/DP28) (the “Board Decision”), the Losses & Recoveries Report shall only contain information on identified losses and the status of recoveries when they meet the following conditions:
 - a. The principle of country ownership has been respected by notifying the Country Coordinating Mechanism (CCM) and the entities involved, of the details of the losses claimed, where they have been provided with appropriate time to respond, and this response is incorporated by the OIG in the publicly available reports;
 - b. The details of losses identified have been submitted to the Global Fund Secretariat and its comments have been considered by the OIG;
 - c. The Global Fund’s Legal Counsel has made a determination that the Global Fund is entitled to make a claim for recovery against an entity based on the work of the OIG; and

¹ Consistent with the process followed at the AEC’s February 2014 meeting, the Secretariat has prepared this Losses and Recoveries Report and the Inspector General has provided a related cover letter. Following additional consideration and consultation, the OIG and Secretariat are jointly proposing a revised approach to the creation of future Losses and Recoveries Reports, which is described in further detail in GF-AEC10-[XX].

- d. These figures have been made public, i.e. the OIG has reported a number either through a specific public report or through the OIG Progress report to the Board which will also be made public, or the OIG has notified the AEC in writing.
- 7 In May 2014, the Secretariat issued internal guidance to articulate the latest approach to the determination and collection of recoveries. In summary, the roles of the key actors in the recoveries process are noted below:
- a. OIG - through its investigation and audit reports, the OIG quantifies expenditures linked to compliance issues with the grant agreement, focusing on lapses in oversight and expenditures compromised in various ways. These amounts may include, but are not limited to, the consideration of “loss”;
 - b. Country Team (CT) – reviews the draft and final OIG reports and acts on any immediate operational risks which are identified to avoid further loss where applicable. The CT presents to the Recoveries Committee the proposed additional actions, if any, required to make a final determination of the recoverable amount. Following agreement of the Recoveries Committee and decision of the Executive Director the CT is responsible for obtaining a commitment to repay any amounts deemed due and for the ultimate collection thereof;
 - c. Legal Counsel - determines that a sound legal basis for recovery exists before any claims for recovery are made, in fulfillment of the Legal Counsel’s responsibility under the Board Decision;
 - d. Recoveries Committee – the recoveries process is managed by a Recoveries Committee comprising the Chief Risk Officer (Chair), the Head of Grant Management, the Treasurer and the Head of Legal and Compliance. The OIG is invited to each Committee meeting as an observer. The Committee considers whether additional actions are needed to come to a final conclusion as to the amount to be recovered. It then makes recommendations as to the recovery amount and approach to the Executive Director, who takes all decisions on recovery actions, including approving any necessary write-offs, as part of the Executive Director’s responsibility for managing the Secretariat. These decisions benefit from the OIG’s participation in recoveries discussions.

REPORTABLE EVENTS

- 8 Under the Board Decision the Secretariat is required to describe any events where Global Fund financed assets have been compromised through events which are beyond the control of the responsible implementer, such as natural disasters, civil unrest or the actions of regulatory bodies in a country.
- 9 Since the last report, no reportable events have come to management’s attention.

ON-GOING RECOVERY EFFORTS

- 10 A summary table covering all recoveries is provided below:

Table 1: Overview as at 30 June 2014

All amounts expressed in US\$ thousands

	OIG report issue date	OIG reported figures	Recoveries and other Adjustments					Net
			Mane- ment adjust- ments	Amount deemed recoverable	Received	Committed to repay	Written off	
Balance as at 01 January 2014 (all cases)		118,285	(15,146)	103,139	(25,955)	(9,082)	(1,013)	67,089
Add/(Less): Recoveries and other Adjustments								
<i>Cash recovery</i>		0	0	0	(3,167)	0	0	(3,167)
<i>Commitments recovered</i>		0	(68)	(68)	0	1,375	0	1,375
<i>net management adjustments</i>		0	(68)	(68)	(3,167)	1,375	0	(1,860)
Add: New cases reported by the OIG during the period:								
<i>Madagascar</i>	Jan-2014	463	12	475	(64)	0	0	411
<i>Papua New Guinea</i>	Feb-2014	1,353	(355)	998	0	0	0	998
<i>Sierra Leone</i>	Apr-2014	71	0	71	0	0	0	71
		1,887	(343)	1,544	(64)	0	0	1,480
Net movement during the period		1,887	(411)	1,476	(3,231)	1,375	0	(380)
Balance as at 30 June 2014 (all cases)		120,172	(15,557)	104,615	(29,186)	(7,707)	(1,013)	66,709
Less: Cases closed after full resolution - see Table 3		(13,654)	7,656	(5,998)	4,985	0	1,013	0
Balance as at 30 June 2014		106,518	(7,901)	98,617	(24,201)	(7,707)	0	66,709

11 Since the inception of the Fund, through June 30, 2014, a total of US\$ 29.2 million has been recovered in 23 cases, and written commitments for a further US\$ 7.7 million have been obtained. Twelve cases have been fully resolved with a combined amount recovered or written off of US\$ 6.0 million and these have now been removed from the recoveries summary above. During the six-month period since the last update report, three new cases have been added with a combined total amount deemed recoverable of US\$ 1.5 million, US\$ 3.2 million was recovered in cash, and management adjustments increased by US\$ 0.4 million during the period. No amounts were written off.

12 In addition to the above, the following significant events have occurred between 30 June 2014 and the report date of 9 October 2014:

- e. Reimbursement Agreements signed for a total of US\$ 10 million, with the Governments of Djibouti (US\$ 4.1 million); Central African Republic (US\$ 0.97 million); and Mali (US\$ 4.9 million);
- f. Funds recovered of US\$ 1.3 million from the Governments of Malawi (US\$ 0.9 million) and Madagascar (US\$ 0.4 million).

13 Table 2 presents the detailed country-by-country data on losses and recoveries.

14 Overall the recoveries made during the first half of 2014 remain small in relation to the total amount due. The focus continues to be on turning the decisions of the Executive Director (following the Recoveries Committee recommendations) into firm commitments from the responsible (current or former) recipients concerned. This is resource-intensive work in many cases and requires skillful handling.

15 On legacy cases (those published prior to 1 January 2014), cash recoveries as of 30 June 2014 were 28% of the amounts deemed recoverable. As of 31 December 2013 this stood at 25%.

16 The outlook for recoveries should improve over the second half of the year as some larger cases reach resolution. The Secretariat is applying the leverage of access to the full New Funding Model resource allocation as one of the tools to improve recovery results. The

signing of new grants under the NFM will be conditional on there being significant progress towards resolution of recoveries issues in each country.

- 17 In terms of new cases, the Secretariat is anticipating a much improved turnaround time from initial loss determination to final recovery now that the improved recoveries approach has gone into effect.
- 18 It should be noted that 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 will almost always be different from those presented in the financial statements due to timing differences and the accounting method adopted to comply with the stringent requirements of IFRS. Timing differences result when for example the Executive Director determines an amount recoverable but the documentation, for example the formal demand letter, is issued at a later date. Under the Global Fund's accounting method the recoverable amount would not be booked in the financial statements until the demand letter is issued. It is, however, confirmed that the Financial Statements reporting on losses and recoveries uses the exact same underlying data as that presented within Table 2 below.

TABLE 2: OPEN CASES AS AT 30 JUNE 2014

All amounts expressed in US\$'000 (see accompanying notes at the foot of Table 3)

Country	Type of Examination	OIG report issue date	OIG reported figures					Management adjustments (1)	Amount deemed recoverable (2)	Written off	Recovered	Commitment to repay (3)	Net
			Misappropriated	Unsupported	Ineligible	Other	Total						
Uganda	Audit	Feb-10			1,600		1,600	0	1,600		(520)		1,080
Democratic Republic of Congo	Audit	Mar-10		2,480	0		2,480	0	2,480				2,480
Zambia	Audit	Oct-10	13	5,760	4,998		10,771	(895)	9,876		(8,175)		1,701
Cameroon	Audit	Oct-10	33	2,200	3,370		5,603	(2,199)	3,404		(33)	(3,370)	1
Mali	Investigation	Jun-11	4,074	1,035	122		5,231	0	5,231		(304)		4,927
Nigeria	Aud/Inv	Oct-11	1,771	5,838	1,170		8,779		8,779		(485)		8,294
Sri Lanka	Audit	Oct-11		982	1,665		2,647	(1,181)	1,466		(450)		1,016
South Sudan	Audit	Oct-11		262	265		527		527				527
Madagascar	Audit	Oct-11			283		283	(141)	142				142
Togo	Audit	Oct-11			433	432	865		865				865
Mauritania	Investigation	Mar-12	4,070	120	2,558		6,748	(150)	6,598		(5,270)		1,328
Ethiopia	Audit	May-12		5,703	1,324		7,027		7,027		(5,899)	(1,128)	0
Kenya	Audit	Jun-12		1,437	1,816		3,253		3,253				3,253
Bangladesh (PMUK)	Investigation	Jul-12	3,625				3,625		3,625				3,625
Papua New Guinea	Audit	Jul-12		1,633	1,460		3,093		3,093				3,093
Laos	Audit	Jul-12		41	99	1,876	2,016	(804)	1,212				1,212
Malawi	Audit	Aug-12		3,559	436		3,995	(652)	3,343		(2,376)	(967)	0
Burundi	Audit	Aug-12			31		31	19	50		(1)		49
Senegal	Audit	Sep-12		140	0		140		140		(39)		101
Namibia	Audit	Oct-12		1,654	584		2,238	(252)	1,986				1,986
Kyrgyzstan	Audit	Oct-12			94	33	127	(4)	123				123
Zanzibar	Audit	Oct-12		62	388		450	(36)	414				414

Country	Type of Examination	OIG report issue date	OIG reported figures					Management adjustments (1)	Amount deemed recoverable (2)	Written off	Recovered	Commitment to repay (3)	Net
			Misappropriated	Unsupported	Ineligible	Other	Total						
Ghana	Audit	Oct-12			9,808	555	10,363	(1,021)	9,342				9,342
Djibouti	Aud/Inv	Oct-12	320	5,400	2,475		8,195		8,195				8,195
Bangladesh (non-PMUK)	Audit	Oct-12		4	1,151	442	1,597		1,597				1,597
Kazakhstan	Audit	Dec-12		211	37	142	390		390				390
Central African Republic	Audit	Feb-13		718	220		938	(27)	911				911
Guatemala	Audit	Mar-13			272		272	1,311	1,583				1,583
India	Audit	Apr-13			1,140		1,140	(110)	1,030				1,030
Republic of the Congo	Audit	May-13		3,656			3,656	(1,241)	2,415		(173)	(2,242)	0
Georgia	Investigation	May-13	878				878	(185)	693				693
Papua New Guinea	Investigation	Aug-13	1,587				1,587	(31)	1,556				1,556
Kyrgyzstan	Investigation	Aug-13	54				54		54				54
Democratic Republic of Congo	Investigation	Memo to AEC, Sept 2013	3,600				3,600		3,600				3,600
Cambodia	Investigation	Oct-13	411		21		432	41	473		(390)		83
Madagascar	Investigation	Jan-14			463		463	12	475		(86)		389
Papua New Guinea	Investigation	Feb-14			1,353		1,353	(355)	998				998
Sierra Leone	Investigation	May-14	71				71		71				71
Total			20,507	42,895	39,636	3,480	106,518	(7,901)	98,617	0	(24,201)	(7,707)	66,709
Percentages			19%	40%	37%	3%	100%	7%	93%	0%	24%	8%	68%

Table 3: Fully resolved cases as of 30 June 2014

All amounts expressed in US\$'000 (see accompanying notes at the foot of the table)

Country	Type of Examination	OIG report issue date	OIG reported figures					Management adjustments (1)	Amount deemed recoverable (2)	Written off	Recovered	Net
			Misappropriated	Unsupported	Ineligible	Other	Total					
Zimbabwe	Audit	Mar-09			134		134		134	(134)		0
Tanzania	Audit	Jun-09			0	819	819	(819)	0			0
Philippines	Audit	Feb-10			2,012		2,012	(1,757)	255		(255)	0
Cambodia	Audit	Oct-10		223	0	1,362	1,585	(198)	1,387		(1,387)	0
Haiti	Audit	Oct-10		519	1,254	705	2,478	(661)	1,817	(660)	(1,157)	0
Swaziland	Audit	Oct-11		767	1,641		2,408	(1,137)	1,271	(138)	(1,133)	0
Dominican Republic	Audit	Oct-11			175		175		175		(175)	0
India	Investigation	Oct-11	872				872	(525)	347	(81)	(266)	0
Mozambique	Audit	Aug-12		500			500		500		(500)	0
Ukraine	Audit	Aug-12		2,393	166		2,559	(2,559)	0			0
Tajikistan	Audit	Feb-13	7		0		7	0	7		(7)	0
Kazakhstan	Investigation	Dec-13	105				105		105		(105)	0
Total			984	4,402	5,382	2,886	13,654	(7,656)	5,998	(1,013)	(4,985)	0

Notes:

- (1) 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 ineligible where sound rationales exist, and amounts identified by the Secretariat as recoverable in addition to the amounts reported by the OIG. Unless indicated, these adjustments have been validated by the OIG.
- (2) This represents maximum amounts to be recovered based on the deliberations of the Recoveries Committee 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. 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.
- (3) A commitment to repay is recognized when it has been received in writing from the entity involved.