

Thirty-Third Board Meeting

Recoveries Report

GF/B33/21

Board Information

PURPOSE:

1. This report is provided to the Board 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”) for the period ending 31 December 2014. The OIG reports independently to the Board on the Secretariat’s progress on matters related to recoveries.
2. The report presents a brief introduction and provides an explanation of the method and process for determining recoverable amounts. It also describes the context within which recoveries, from the identification of amounts by the OIG to the actual recovery, are being handled by the Secretariat.

I. Introduction

1. The Global Fund is fully committed to the principles of transparency and accountability. To fulfill this commitment, the 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 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. At its Thirty-Second Meeting in November 2014, the Board decided to update the reporting methodology for losses and recoveries to better reflect developments in the respective roles of the OIG and the Secretariat in identifying non-compliant expenditures and pursuing recovery of any related amounts (GF/B32/DPO4). The updated process also maintains respect for the OIG's independence by providing for a Secretariat-issued Recoveries Report describing the status of recoveries cases relating to published OIG reports, while allowing the OIG to independently report on the Secretariat's recovery process and progress on recoveries instead of jointly issuing a report with the Secretariat. The Recoveries Report is submitted for review to the Audit and Ethics Committee (AEC), who engages with the Finance and Operational Performance Committee (FOPC) on matters within the FOPC's mandate that relate to the process of developing and updating the Recoveries Report.
4. Furthermore, under GF/B32/DPO4, the Board requested the Secretariat to develop and present to the AEC for approval a methodology and format for future reporting on recoverable amounts identified in the normal course of grant management operations (i.e., unrelated to non-compliant expenditures identified in OIG reports).
5. 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.

II. Method and Process for Determining Recoverable Amounts

6. Under GF/B32/DPO4, the Recoveries Report must detail the following:
 - a) The amounts reported by the OIG as being non-compliant and/or as constituting financial loss – methodology described below (para. 9);
 - b) The amounts deemed recoverable by the Secretariat based on the OIG's findings, including an explanation of the method and process employed for the determination of such amounts – methodology described below (para. 8); and
 - c) Progress on outstanding recovery actions, including a description of the context within which recovery-related processes are being handled by the Secretariat and any lessons learned – referred to in section 5 of the report.

7. **Non-Compliant Expenditures/Financial Loss:** The OIG, through its investigation and audit reports, quantifies expenditures linked to compliance issues with the grant agreement, focusing on lapses in oversight and expenditures compromised in various ways. In addition, whenever possible, the OIG strives to provide contextual information to help the Secretariat determine the appropriate amount for recoveries, notably by providing (where available and appropriate) overpricing analyses or information on damages and other costs or losses. Prior to the publication of any investigation or audit report, the OIG ensures that principles of country ownership and procedural due process have been respected by notifying the relevant Country Coordinating Mechanism and entities involved of the details of the OIG's findings, providing such entities a time to respond, and incorporating or addressing their comments in subsequently published reports. The OIG also shares details of its findings with the Secretariat and considers any comments received from the Secretariat.

8. **Amounts deemed recoverable:** Based on the OIG's findings of non-compliant expenditures and/or financial loss, the Secretariat then determines an appropriate amount for recovery to be pursued from relevant entities. This includes consideration by the Recoveries Committee of each recovery case (based on detailed information concerning the context and background received from the relevant Country Team). The Recoveries Committee considers whether additional actions are needed to come to a final conclusion as to the amount to be recovered based on the findings of the OIG, including the review of the categorization and calculation of amounts, consideration of possible retroactive approvals of expenditures where sound rationales exist, the commissioning of additional documentary reviews where necessary and the consideration of business factors in determining appropriate approaches towards recovery. This includes a review to determine the legal basis for recovery. All recoverable amounts are approved by the Executive Director based on recommendations from the Recoveries Committee.¹

9. For note the roles of the key actors in the recoveries process are referenced below:

- d) OIG – through its investigation and audit reports, the OIG quantifies non-compliant expenditures under 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”. The OIG may recommend in its report the amount which should be recovered;
- e) Country Team (CT) – reviews the draft and final OIG reports and acts on any immediate operational risks which are identified to avoid further potential loss where necessary. 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 communicating the recovery decisions to the CCM and relevant implementing entities, usually through the presentation of a demand letter. The CT is also responsible for following up with the debtor entities on timely repayment of amounts due. Occasionally the CT reports back to the Recoveries Committee on proposed repayment plans;
- f) Legal Counsel – determines that a sound legal basis for recovery exists before any claims for recovery are made;
- g) 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

¹ Where a case finding non-compliant expenditures has not yet been through the internal Secretariat process for determination of a recoverable amount (including consideration by the Recoveries Committee), the initial findings from the OIG report are accompanied by a footnote to highlight this fact.

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.

III. On-going recovery efforts and recoveries context

10. There have been two recent developments pertaining to the recoveries process:

- h) First the implementation of the New Funding Model has provided the opportunity to use access to the country allocation as leverage against recovery of debts. The country allocation letters issued in March 2014 advised countries that access to the full country allocation may be dependent on the level of progress towards recovery of amounts due. Taking country context into account in each case, Country Teams are applying this leverage responsibly during grant negotiations.
- i) Secondly, in January 2015 the Global Fund's Management Executive Committee approved a last-resort approach to the resolution of difficult recovery cases, through a reduction of the country allocation. This recognizes that in certain cases recovery would be virtually impossible after exploring all options due to such realities as difficult legal environments, failed states, insolvency (non-Governmental PRs) and the cost to pursue such cases would, on the basis of legal advice, be unjustifiable. In the absence of a recovery the country allocation would be reduced by a factor of 2:1, being 2 allocation: 1 recoverable, reflecting the need to encourage actual recovery.

11. A summary status of all OIG-related recoveries is provided below:

Table 1: Overview as at 31 December 2014

All amounts expressed in US\$ thousands

	Recoveries and other Adjustments							
	OIG reported figures	Management adjustments	Amount deemed recoverable	Written off	Received	Net still to recover	Committed to repay	Net after commitments
OPEN CASES (n=42)								
Balance as at 01 July 2014	106,518	(7,901)	98,617	0	(24,201)	74,416	(7,707)	66,709
Add/(Less): Recoveries and other Adjustments								
<i>Cash recovery</i>			0		(5,217)	(5,217)		(5,217)
<i>New Commitments</i>			0			0	(10,391)	(10,391)
<i>Commitments recovered</i>			0			0	3,066	3,066
<i>Net management adjustments</i>		(5,993)	(5,993)			(5,993)		(5,993)
<i>Write offs</i>			0	(730)		(730)		(730)
	0	(5,993)	(5,993)	(730)	(5,217)	(11,940)	(7,325)	(19,265)
Add: New cases or adjustments reported by the OIG during the period:	1,670		1,670			1,670		1,670
Less: Cases closed after full resolution	(9,767)	110	(9,657)	730	8,927	0	0	0
Balance as at 31 December 2014	98,421	(13,784)	84,637	0	(20,491)	64,146	(15,032)	49,114
Total closed cases c/f (n=15)	23,421	(7,766)	15,655	(1,743)	(13,912)	0	0	0
Total all reported cases (n=57)	121,842	(21,550)	100,292	(1,743)	(34,403)	64,146	(15,032)	49,114
Percentage of recoverable			100%	2%	34%	64%	15%	49%

Note: a reconciliation of net amount still to recover at 31 December 2014 to the financial statements net recoverable amount due is provided in table 3

Note: Each OIG report is treated as a separate case

12. Since the inception of the Fund, a total of US\$ 34.4 million has been recovered in 30 cases, and written commitments for a further US\$ 15 million have been obtained. Fifteen cases have been fully resolved with a combined amount recovered or written off of US\$ 15.6 million and these are shown separately in table 3. In terms of ever-reported cases the % amount recovered or written off as a proportion of the amount deemed recoverable is 35% (up from 29% at 30 June 2014). If firm commitments are included this % increases to 49% (36%).

13. The number of open cases increased in the six months period ended 31 December 2014. Seven new OIG reports with potential recoverable amounts were added to the previous caseload and three cases were fully resolved and closed, giving a net addition of four cases. Since inception this means that a total of fifty seven cases have been reported of which fifteen have been fully resolved.

14. In addition to the above, the following significant recovery-related events have occurred between 31 December 2014 and the date of preparation of this report: :

- j) Recovery of Euros 1.7 million (US\$ 2.2 million) from the Republic of the Congo in full settlement of the amount due and in accordance with its commitment letter signed in 2013;
- k) A new OIG investigation report was posted on the Global Fund web-site on 28 January. It concerns a procurement investigation report in Kazakhstan. The recommended recoverable amount is US\$ 5.2 million. The Recoveries Committee expects to receive recommendations from the Country Team on this case in Quarter 1, 2015.

15. Table 2 presents the detailed country-by-country data on losses and recoveries for open cases. Fully resolved cases feature in table 3.

16. Overall there has been an improvement in the recoveries made or commitments received during the second half of 2014 but the process remains slow and resource-intensive. The focus continued to be on clearing so-called 'legacy' cases through the Recoveries Committee and turning the resulting Executive Director decisions into formal demand letters, as many legacy cases required labor intensive follow up. There are very few such legacy cases left which have not reached an advanced stage of determining the final recoverable amount to be pursued.

17. Turnaround times for new cases continue to improve compared to 'legacy' cases. Those reported since 1 January 2014 are moving through the recovery steps much more quickly than before. The improvement reflects the new approach to recoveries referred to in the previous report and will see considerable benefits: recoverable funds will be returned much more quickly, significantly less in-country and Secretariat resources will be invested in the process and the potential disruption to health programs will become the exception rather than the rule.

18. The outlook for recoveries in 2015 should see a considerable improvement in three key areas: (1) time taken to turnaround new cases, (2) closure of legacy cases which still remain open after more than two years, (3) collection of debts due. The additional steps to achieve this include:

- l) Engagement of a full-time recoveries officer to address the need for central administration and tracking of cases;
- m) A detailed action plan and targets for each case in 2015;
- n) As referred to in para. 10, further effective use of the country allocation as leverage to recover debts – a high proportion of grants under the New Funding Model are due for Board approval in 2015;

- o) As also referred to in para. 10, the possibility to close difficult cases through reducing the country allocation, as a last resort.

19. 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 the accounting method adopted to comply with the stringent requirements of IFRS. For example, the OIG may release a report which is then reflected in this report but the time to convert the findings into a demand letter (which is then booked in the financial statements) can be quite lengthy. 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.

IV. Non OIG-reported recoverable amounts

20. Pursuant to Board Decision GF/B32/DP04 for reporting on recoveries identified in the due course of grant management operations, outlining the proposed approach to the reporting of recoverable amounts emanating from sources other than OIG reports. Future reports commencing as of 31 December 2015 will include information on both OIG and non-OIG reported recoverable amounts.

Table 2: Cases with recoverable balances as at 31 December 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)	Gross amount deemed recoverable (2)	Written off	Recovered	Net still to recover	Commitment to repay (3)	Net after commitments
			Misappropriated	Unsupported	Ineligible	Other	Total							
Democratic Republic of Congo	Audit	Mar-10		2,480	0		2,480	0	2,480			2,480		2,480
Zambia	Audit	Oct-10	13	5,760	4,998		10,771	(895)	9,876		(8,175)	1,701		1,701
Cameroon	Audit	Oct-10	33	2,200	3,370		5,603	(2,200)	3,403		(33)	3,370	(3,370)	0
Mali	Investigation	Jun-11	4,074	1,035	122		5,231	0	5,231		(304)	4,927	(4,927)	0
Nigeria	Aud/Inv	Oct-11	1,771	5,838	1,170		8,779	(2,203)	6,576		(184)	6,392		6,392
Sri Lanka	Audit	Oct-11		982	1,665		2,647	(1,181)	1,466		(450)	1,016		1,016
South Sudan	Audit	Oct-11		262	265		527	(372)	155		(19)	136		136
Madagascar	Audit	Oct-11			283		283	(176)	107			107		107
Togo	Audit	Oct-11			433	432	865		865			865		865
Mauritania	Investigation	Mar-12	4,070	120	2,558		6,748	(150)	6,598		(5,270)	1,328		1,328
Kenya	Audit	Jun-12		1,437	1,816		3,253	(2,059)	1,194			1,194		1,194
Bangladesh (PMUK)	Investigation	Jul-12	3,625				3,625		3,625			3,625		3,625
Papua New Guinea	Audit	Jul-12		1,633	1,460		3,093		3,093		(377)	2,716		2,716
Laos	Audit	Jul-12		41	99	1,876	2,016	(1,070)	946			946		946
Malawi	Audit	Aug-12		3,559	436		3,995	(652)	3,343		(3,314)	29	(29)	0

Country	Type of Examination	OIG report	OIG reported figures				Management adjustments	Gross amount	Written off	Recovered	Net still to	Commitment to	Net after commitments
Burundi	Audit	Aug-12		31		31	19	50		(1)	49		49
Senegal	Audit	Sep-12	140	0		140		140		(39)	101		101
Namibia	Audit	Oct-12	1,654	584		2,238	(1,369)	869			869		869
Kyrgyzstan	Audit	Oct-12	95	31		126	(4)	122			122		122
Zanzibar	Audit	Oct-12	62	388		450	(36)	414			414	(414)	0
Ghana	Aud/Inv	Oct-12		1,975	555	2,530	(1,021)	1,509			1,509		1,509
Djibouti	Aud/Inv	Oct-12	320	5,400	2,475	8,195		8,195		(1,000)	7,195	(3,069)	4,126
Bangladesh (non-PMUK)	Audit	Oct-12		4	1,151	442	1,597	1,597			1,597		1,597
Khazakhstan	Audit	Dec-12	211	37	142	390		390			390		390
Central African Republic	Audit	Feb-13	718	220	10	948	32	980			980	(980)	0
Guatemala	Audit	Mar-13		272		272	1,311	1,583			1,583		1,583
Republic of the Congo	Audit	May-13	3,656			3,656	(1,241)	2,415		(173)	2,242	(2,242)	0
Georgia	Investigation	May-13	878			878	(185)	693			693		693
Papua New Guinea	Investigation	Aug-13	359			359	(31)	328			328		328
Kyrgyzstan	Investigation	Aug-13	54			54		54			54		54
Democratic Republic of Congo	Investigation	Memo to AEC, 9/2013	3,600			3,600		3,600			3,600		3,600
Cambodia	Investigation	Oct-13	411	21		432	41	473		(390)	83		83
Madagascar	Investigation	Jan-14		463		463	12	475		(461)	14		14
Papua New Guinea	Investigation	Feb-14		1,353		1,353	(355)	998			998		998

Country	Type of Examination	OIG report	OIG reported figures					Management adjustments	Gross amount	Written off	Recovered	Net still to	Commitment to	Net after commitments
Sierre Leone	Investigation	May-14	71				71	71			71		71	
Mali	Investigation	Oct-14	2,210				2,210	2,210			2,210		2,210	
Nigeria	Investigation	Oct-14	11	344			355	355		(301)	54		54	
Burundi	Investigation	Oct-14	144		139		283	283			283		283	
Democratic Republic of Congo	Investigation	Oct-14	139	1,287	3		1,429	1,429			1,429		1,429	
Burundi	Investigation	Nov-14	184				184	184			184		184	
Ghana	Investigation	Dec-14	3,840				3,840	3,840			3,840		3,840	
Niger	Investigation	Dec-14		2,421			2,421	2,421			2,421		2,421	
Total			25,807	41,339	27,818	3,457	98,421	(13,785)	84,636	0	(20,491)	64,145	(15,031)	49,114

Table 3: Fully resolved cases as of 31 December 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 to recover
			Misappropriated	Unsupported	Ineligible	Other	Total					
Zimbabwe	Audit	Mar-09			134		134		134	(134)		0
Tanzania	Audit	Jun-09			0	819	819	(819)	0			0
Uganda (note 5)	Audit	Feb-10			1,600		1,600	0	1,600	(485)	(1,115)	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
Ethiopia	Audit	May-12		5,703	1,324		7,027		7,027	(245)	(6,782)	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
India	Audit	Apr-13			1,140		1,140	(110)	1,030		(1,030)	0
Kazakhstan	Investigation	Dec-13	105				105		105		(105)	0
Total			984	10,105	9,446	2,886	23,421	(7,766)	15,655	(1,743)	(13,912)	0

Notes to tables:

- (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. Such adjustments are made in consultation with the OIG.
- (2) The amount deemed recoverable represents the maximum amount 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 on a portion of the amount shown as 'net deemed recoverable'.
- (3) A commitment to repay is included in the table when it has been received in writing from the entity involved.
- (4) These cases had not been presented at the Recoveries Committee as at 31/12/14.
- (5) An amount of US\$ 485,000 was written off in the period. This results from the fact that the original demand, following OIG investigation, was made in Uganda Shillings at the amount concluded in the OIG report. At the time of making the payment demands the intention was to re-invest the recovered funds into the programs. This instruction was later changed and a refund to the Global Fund trustee account requested. The full amount of Uganda Shillings demanded was recovered. However, due to depreciation of the Uganda Shilling against the US\$ there was an exchange loss against the recoverable amount reported in US\$ in the Recoveries Report.

As at 31 December 2014 a net recoverable of USD 23 million (2013: USD 6 million) is recorded in the consolidated financial statements. The difference from the USD 64 million (2013: USD 76 million) net recoverable amounts noted in table 1 of this report comprises cases for which formalized terms of recovery with the Principal Recipients are not yet issued.