

REPORT OF THE ETHICS COMMITTEE

OUTLINE:

This report presents the activities of the Ethics Committee since the Eighteenth Board Meeting, held in November 2008.

PART 1: INTRODUCTION

1.1 The Ethics Committee held a teleconference on 15 October 2009. Professor Sheila Tlou, Chair, chaired the meeting.

1.2 This report does not contain items for Board decision. It contains the following Items for information:

- i. A request for a waiver of the requirement of a one-year cooling-off period
- ii. Annual Filing of Declaration of Interest Forms
- iii. Update on Staff Secondments
- iv. Ethics and Conflict of Interest Cases considered by the Committee

PART 2: ITEMS FOR INFORMATION

Information

A request for a waiver of the requirement of a one-year cooling-off period

2.1 Since it submitted its last report to the Board in November 2008, the Committee has considered one request for a waiver to the requirement, set out in Paragraph 7 of the Policy on Ethics and Conflict of Interest for Global Fund Institutions (the "Ethics Policy"). Paragraph 7 of the Ethics Policy requires that a one-year cooling-off period apply before a person who has served as a "Board member, Alternate, a member of a Board Committee, or the Chair or Vice Chair of the Technical Review Panel" becomes eligible for employment within the Secretariat.¹

2.2 The request for a waiver was received on 19 November 2008. The Ethics Committee considered the request of the Board member on 24 November 2008 and agreed to grant the request for a waiver of the cooling-off period. This means that the Board member was free to pursue the application for a position with the Secretariat.

Annual Filing of Declaration of Interest Forms

2.3 The Ethics Policy requires Covered Individuals to submit a Declaration of Interest form each year and update the information provided on it wherever there is a material change². The Ethics Official will distribute a Declaration of Interest form and the Ethics Policy to each Covered Individual by 27 October 2009.

2.4 The Ethics Policy makes it clear that employees with "significant decision-making authority, as opposed to support staff positions" qualify as professional employees and that the

¹ Paragraph 7 of the Ethics Policy provides that "[a]ny individual who has served as a Board member, Alternate, a member of a Board Committee, or as Chair or Vice-Chair of the Technical Review Panel shall not be eligible for employment by the Global Fund Secretariat until one year following their last date of service in such a position. The Ethics Committee may waive this provision as appropriate. A request for such a waiver must be submitted by the concerned individual to the Ethics Committee before he or she applies for employment by the Secretariat. The Secretariat shall not take action on or accept an application for employment from such an individual unless a waiver has been granted by the Ethics Committee."

² Paragraph 4.3 of the Ethics Policy provides that "[d]isclosure statements shall be updated annually and whenever there is a material change in the information they contain, and shall be maintained by the Ethics Official and made available for inspection by the Ethics Committee, and, only as deemed appropriate by the Ethics Committee, by the Board. Except as outlined above, these statements shall be maintained confidential."

“Executive Director will determine whether a particular individual is covered in circumstances where there is uncertainty”.

2.5 Since the termination of the Administrative Services Agreement of the Global Fund with the World Health Organization, this is the first time that Secretariat employees covered by the Ethics Policy will have to complete the Declaration of Interest form.

2.6 On 14 September 2009, the Executive Director sent a memorandum proposing to the Ethics Committee which employees would be covered by the Ethics Policy. In his memorandum, the Executive Director has considered that Secretariat employees at Grade 5 and above have “significant decision-making authority” and as such would be covered by the Ethics Policy.

2.7 The Ethics Committee agreed with the Executive Director’s proposal. The Ethics Official will distribute Declaration of Interest form to each Covered Individual by 27 October 2009. The Ethics Committee will consider any issues arising from the filing of the Declaration of Interest forms.

Staff Secondments

2.8 The Ethics Committee received an annual update on secondments³ and loans⁴ to the Global Fund. The Secretariat informed the Ethics Committee of current secondments and loans and the process it has undertaken to assess Conflict of Interest determination under the Global Fund’s Procedures for Assessing Proposed Secondments and Loans Involving the Global Fund. The Ethics Committee found no ethical issues with secondments and loans to the Secretariat.

Ethics and Conflict of Interest Cases considered by the Committee

2.9 Since it submitted its last report to the Board in November 2008, the Ethics Committee received two requests for opinion on ethical issues and potential conflict of interest:

- i. In August 2009, the Chair and the Vice-Chair of the Ethics Committee received a letter from Point Seven constituency indicating that it had become aware of a major supplier to programs financed by the Global Fund “participating in the [B]oard meeting as part of the private sector constituency” and “actively engaging in Board decisions on issues... in which it has a strong commercial interest”. The Ethics Committee noted that this would represent a conflict of interest and agreed to propose to the Board Chair to voice the concern at the Board Meeting and ask the constituencies to review their constituency participation and take measures immediately to ensure participation is restricted when a Conflict of Interest situation is perceived with respect to presence of a certain party or parties and opportunity for undue influence.
- ii. In August 2009, the Chair and Vice-Chair of the Ethics Committee also received a conflict of interest query from a consultancy firm requesting whether a TRP member could participate in the tender for a project with UNAIDS. The Ethics

³ Secondment is a temporary transfer of an employee from their regular organization to another organization, with the seconded person following the rules and procedures of the receiving organization.

⁴ A reimbursable loan is a temporary transfer of an employee from their regular organization to another organization, with the person on reimbursable loan following the rules and procedures of the lending organization.

Committee determined that such situation represents a case of a Conflict of Interest and shall be discouraged.

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