The Global Fund
To Fight AIDS, Tuberculosis and Malaria

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By-laws

AS AMENDED 21 NOVEMBER 2011

Article 1. Structure

The Global Fund to Fight AIDS, Tuberculosis and Malaria ("Global Fund") is a multistakeholder international financing institution duly formed as a non-profit foundation under the laws of Switzerland and recognized as an international organization by various national governments. The Global Fund is governed by these by-laws and the applicable provisions of Swiss law, is registered at the "Registre du Commerce" in Geneva, and operates under the supervision of the Federal Supervisory Board for Foundations ("Supervisory Authority").

Article 2. Purpose

The purpose of the Global Fund is to attract, manage and disburse resources that will make a sustainable and significant contribution to the reduction of infections, illness and death, thereby mitigating the impact caused by HIV/AIDS, tuberculosis and malaria in countries in need, and contributing to poverty reduction as part of the Millennium Development Goals established by the United Nations.

Article 3. Headquarters

The Global Fund's headquarters is in the Canton of Geneva, Switzerland.

Article 4. Duration

The Global Fund shall remain in operation indefinitely.

Article 5. Governing, Administrative and Advisory Bodies

The governing, administrative and advisory bodies of the Global Fund are:

- the Partnership Forum;
- the Global Fund Board (the "Board");
- the Committees of the Board;
- the Coordinating Group;
- the Secretariat;
- the Office of the Inspector General;
- the Technical Review Panel;
- the Technical Evaluation Reference Group; and
- the Market Dynamics Advisory Group.

Article 6. Partnership Forum

6.1 *Purpose and Composition*

The Partnership Forum shall be convened periodically in order to provide persons and entities concerned about the prevention, care, treatment and eventual eradication of HIV/AIDS, tuberculosis and malaria, a forum to express their views on the Global Fund's policies and strategies.

Participation in the Partnership Forum shall be open to a wide range of stakeholders that actively support the Global Fund's objectives, including representatives of donors, multilateral development cooperation agencies, developed and developing countries, civil society, nongovernmental and community-based organizations, technical and research agencies, and the private sector.

6.2 *Functions*

The Partnership Forum will:

- Review progress based on reports from the Board and provide advice to the Global Fund on general policies;
- Provide an important and visible platform for debate, advocacy, continued fundraising, and inclusion of new partners;
- Mobilize and sustain high-level coordination, political commitment and momentum to achieve the Global Fund's objectives; and
- Provide a communication channel for those stakeholders who are not formally represented elsewhere in the governance structure.

6.3 *Frequency and Notice of Meetings*

The Partnership Forum will meet every 24 to 30 months.

Meetings of the Partnership Forum shall be convened by written notice from or on behalf of the Board.

Article 7. The Global Fund Board

7.1 *Composition of the Board*

The Board shall consist of twenty voting members and eight non-voting members. Each voting member shall have one vote.

Voting members of the Board shall consist of:

- Seven representatives from developing countries, one representative based on each of the six World Health Organization (WHO) regions and one additional representative from Africa;
- Eight representatives from donors; and
- Five representatives from civil society and the private sector (one representative of a nongovernmental organization from a developing country, one representative of a nongovernmental organization from a developed country, one representative of the private sector, one representative of a private foundation, and one representative of a nongovernmental organization who is a person living with HIV/AIDS or from a community living with tuberculosis or malaria).

The eight ex-officio non-voting members of the Board shall consist of:

- The Board Chair;
- The Board Vice-Chair;
- One representative from WHO;
- One representative from the Joint United Nations Programme on HIV/AIDS (UNAIDS);
- One representative from the Partners constituency;
- One representative from the trustee of the Global Fund;
- One Swiss citizen with his or her domicile in Switzerland authorized to act on behalf of the Global Fund to the extent required by Swiss law; and
- The Executive Director of the Global Fund.

Members of the Board ("Board Members") other than the Board Chair and Board Vice-Chair may each appoint one Alternate Member to serve in their stead, under policies and procedures determined by the Board.

7.2 *Appointment of Board Members*

Each group mentioned in Article 7.1 of these by-laws will determine a process for selecting its Board representation, with reference to the minimum standards for selecting Board Members and Alternate Members that may be established from time to time by the Board. Except for the Board Chair and Board Vice-Chair who shall each act in their personal capacities, Board Members will serve as representatives of their constituencies. Board Members will serve on the Board for two years or such other term that the Board may determine. The Executive Director shall act in his or her capacity as chief executive officer of the Global Fund and will serve the Board for the duration of his or her term as Executive Director.

Other than the Executive Director, Board Chair and Board Vice-Chair, Board Members shall be deemed to act in their capacity as representatives of their respective governments, organizations, constituencies or other entities.

Subject to their respective representative roles, Board Members shall act in good faith in the best interests of the Global Fund in furtherance of its purpose.

7.3 *Chair and Vice-Chair*

Board Members will select the Board Chair and Board Vice-Chair, provided that the two positions will alternate every two years between the voting groups described in Article 7.6. The Board Chair and the Board Vice-Chair will each be elected for two-year terms and shall serve until the appointment of their successors. In addition to chairing Board meetings, the Chair will also have an important advocacy, partnership and fundraising role.

Between Board meetings, the Board Chair and Board Vice-Chair, acting together, shall take action on behalf of the Board which they consider must be taken urgently without recourse to other procedures as provided in the by-laws or operating procedures of the Board and Committees of the Global Fund. In the event the Board Chair and Board Vice-Chair are unable to agree, the Board Chair shall take the decision.

To the extent practical in the circumstances, the Board Chair and Board Vice-Chair shall take such action following consultation with the Coordinating Group.

Decisions taken between Board Meetings shall be notified to the Board immediately, with an explanation of why such decision was deemed urgent. A full report on the decision shall be presented to the Board at its subsequent meeting.

7.4 *Roles and Functions of the Board*

The Board is the supreme governing body of the Global Fund. The Board shall exercise all powers required to carry out the purpose of the Global Fund, including the following core functions:

i. Strategy Development:
   - Establish the strategies and initiatives of the Global Fund; and
   - Establish the principles that govern the grant-making activities of the Global Fund.

ii. Governance Oversight:
   - Appoint Board and committee leadership and members;
   - Establish Board committees as appropriate;
   - Establish overall principles and direction for the governing, administrative and advisory bodies of the Global Fund; and
   - Select, appoint, assess and, if necessary, replace the Executive Director and the Inspector General.

iii. Commitment of Financial Resources:
   - Review and approve funding proposals;
   - Approve workplans and budgets for the governing, advisory and administrative bodies of the Global Fund; and
   - Approve the annual report and financial statements of the Global Fund.

iv. Assessment of Organizational Performance:
   - Establish and oversee the framework for the monitoring and periodic performance and accountability assessment of activities supported by the Global Fund; and
   - Establish and oversee the framework for the periodic assessment of the performance of governing, administrative and advisory bodies of the Global Fund.

v. Risk Management:
   - Establish and oversee the strategy for identifying and managing risks (including but not limited to financial, reputational, legal, regulatory, operational and strategic risks); and
   - Establish and oversee the risk-tolerance framework of the Global Fund.

vi. Partnership Engagement, Resource Mobilization and Advocacy:
   - Promote the active engagement of and collaboration with a wide and diverse range of partners;
   - Mobilize public and private sector donors to support the mission of the Global Fund; and
   - Promote the mission, principles and activities of the Global Fund.

7.5 *Delegation of Board Authority*

The Board may delegate its powers, except where governing law or these by-laws may otherwise prohibit delegation. Powers delegated by the Board under this article will, notwithstanding such delegation, be exercised under the authority and direction of the Board. The Board reserves and retains all powers not expressly delegated to any other governing, administrative or advisory body.

7.6 *Operations*

The Board shall meet as often as necessary but not less than twice per year.

A meeting of the Board shall be convened by written notification from the Board Chair or Board Vice-Chair.

The Board shall use best efforts to make all decisions by consensus. If all practical efforts by the Board and the Board Chair have not led to consensus, any member of the Board with voting privileges may call for a vote. In order to pass, motions require a two-thirds majority of those present of both: a) the group encompassing the eight donor seats, one private sector seat and one private foundation seat; and b) the group encompassing the seven developing country seats, the two nongovernmental organization seats, and the representative of a nongovernmental organization who is a person living with HIV/AIDS or from a community living with tuberculosis or malaria.

Notwithstanding the foregoing, the Board may decide to take action on a no-objection basis. On such basis, and subject to procedures set by the Board, a motion shall be deemed approved unless four Board Members of one of the voting groups described above objects to the motion, except that a motion not to make a funding commitment shall be deemed approved unless four Board Members of each of the voting groups described above object to the motion.

The Board may act by means of proxy letter, teleconference, email or such other method of communication in which the votes of each Board Member may be recorded, subject to procedures determined by the Board. When acting on a no-objection basis by proxy, email, or other mode of communication in which actual participation may not be verified, participation shall be deemed to have occurred provided that notice to Board Members of the action to be taken conforms to standards set by the Board.

All decisions of the Board will be recorded in minutes of the Board meetings, approved by the Board and provided to all voting and non-voting Board Members, and retained in the permanent records of the Global Fund.

7.7 *Quorum*

The Board may conduct business only when a majority of Board Members of each of the two voting groups defined in Article 7.6 and at least the Board Chair or Board Vice-Chair are present.

Article 8. Committees of the Board

8.1 *Standing Committees of the Board*

The Board shall have the following standing committees:

- the Strategy, Investment and Impact Committee;
- the Finance and Operational Performance Committee; and
- the Audit and Ethics Committee.

The functions, composition and deliverables of each committee shall be as set forth under its charter, as approved and amended from time to time by the Board. The Board may establish such other committees as it deems necessary to carry out the business of the Board from time to time.

8.2 *The Strategy, Investment and Impact Committee*

The purpose of the Strategy, Investment and Impact Committee of the Board is to: (i) provide oversight of the strategic direction of the Global Fund; and (ii) ensure the optimal impact and performance of its investments in health.

As set forth under the charter of the Strategy, Investment and Impact Committee, the Board Chair may exercise a casting vote on this committee in certain instances.

8.3 *The Finance and Operational Performance Committee*

The purpose of the Finance and Operational Performance Committee of the Board is to: (i) provide oversight of the financial management of the Global Fund's resources; and (ii) ensure the optimal performance of the operations and corporate management of the Secretariat.

As set forth under the charter of the Finance and Operational Performance Committee, the Board Vice-Chair may exercise a casting vote on this committee in certain instances.

8.4 *The Audit and Ethics Committee*

The purpose of the Audit and Ethics Committee of the Board is to provide oversight of: (i) the internal and external audit and investigation functions of the Global Fund; and (ii) the adherence by the Global Fund and programs financed by it to appropriate standards of ethical behavior.

Article 9. The Coordinating Group

The Board is supported by the Coordinating Group, comprised of the Board Chair and Board Vice-Chair and the Chair and Vice-Chair of each of the committees of the Board. The Coordinating Group is responsible for ensuring optimal performance in the governance of the Global Fund, providing general coordination and oversight of the risk management functions of Board committees and the Secretariat, and any other responsibilities as may be directed by the Board. The purpose, functions, composition and deliverables of the Coordinating Group shall be as set forth under its terms of reference, as approved and amended from time to time by the Board.

Article 10. Secretariat

10.1 *Composition*

The Secretariat is responsible for managing the day-to-day operations of the Global Fund.

The Secretariat is headed by an Executive Director, who is selected by the Board based on merit, in a non-political, open and competitive manner. The Executive Director acts as the chief executive officer of the Global Fund and serves for a term of four years.

The Executive Director is responsible to the Board for the day-to-day management of the Global Fund, and for specific duties and responsibilities assigned to him or her by the Board.

Secretariat staff are selected by the Executive Director, under policies and procedures approved by the Board and/or its committees for recruitment and selection of Global Fund staff.

10.2 *Roles and Functions of the Secretariat*

Within its responsibility for managing the day-to-day operations of the Global Fund, the Secretariat will undertake the following functions:

- organize the receipt and review of grant applications and negotiate and execute grant agreements;
- commission the Technical Review Panel and ensure the independence of the review process;
- coordinate the process for recommending members of the Technical Review Panel and other advisory group candidates to the Board;
- coordinate the preparation of issues papers and operational strategies for Board meetings and assist committees of the Board, their advisory and technical panels, and other support structures;
- implement the risk management strategy adopted by the Board;
- commission and supervise contracted work;
- support and guide partnerships and coordinate with relevant agencies;
- communicate the Board's decisions to stakeholders;
- oversee the monitoring and evaluation process;
- support the Board in advocacy and resource mobilization;
- organize and prepare for meetings of the Partnership Forum; and
- organize translation and interpretation services.

Article 11. Office of the Inspector General

The Office of the Inspector General is responsible for providing the Board with independent and objective assurance over the design and effectiveness of the controls in place to manage the key risks impacting the Global Fund's programs and operations.

The Office of the Inspector General is an independent unit of the Global Fund, reporting directly to the Board, and is headed by an Inspector General, who is selected by the Board based on merit, in a non-political, open and competitive manner. The Inspector General reports directly to the Board through the Audit and Ethics Committee.

The purpose and functions of the Office of the Inspector General shall be as set forth under its charter and terms of reference, as approved and amended from time to time by the Board.

Article 12. Technical Review Panel

The Technical Review Panel is an independent, impartial team of experts appointed by the Board to guarantee the integrity and consistency of an open and transparent proposal review process. It reviews applications submitted for the Global Fund's support, makes recommendations to the Board, and undertakes such other functions as may be directed by the Board. The purpose, functions and composition of the Technical Review Panel shall be as set forth under its terms of reference, as approved and amended from time to time by the Board or a committee with powers duly delegated by the Board.

Article 13. Technical Evaluation Reference Group

The Technical Evaluation Reference Group is an advisory body of the Global Fund, consisting of an independent and impartial team of experts that ensures the independent evaluation of the Global Fund business model, investments and impact. The Technical Evaluation Reference Group oversees such independent evaluations, makes recommendations to the Board, and undertakes such other functions as may be directed by the Board. The purpose, functions and composition of the Technical Evaluation Reference Group shall be as set forth under its terms of reference, as approved and amended from time to time by the Board or a committee with powers duly delegated by the Board.

Article 14. Market Dynamics Advisory Group

The Market Dynamics Advisory Group is an advisory body of the Global Fund that provides technically sound advice to the Global Fund on the development and implementation of strategies and other innovative initiatives to better support achievement of the Global Fund's strategic objectives in the areas of: (i) initiatives that increase the buying power, value for money and impact of Global Fund investments in pharmaceutical and other health related commodities; (ii) opportunities to expand the take-up and efficient and appropriate use of new pharmaceuticals and health-related technologies, including proposals for innovative partnership arrangements to stimulate take-up and impact; and (iii) mechanisms that streamline and bring increased quality assurance to the procurement and supply of pharmaceutical and health-related commodities within international and/or national markets. The Market Dynamics Advisory Group is comprised of both constituency-nominated representatives, and other persons serving either in an individual capacity or as a representative of a key stakeholder in one or more of the specialist

areas of the Market Dynamics Advisory Group mandate. The purpose, functions and composition of the Market Dynamics Advisory Group shall be as set forth under its terms of reference, as approved and amended from time to time by the Board or a committee with powers duly delegated by the Board.

Article 15. Audit

The Board or a committee with powers duly delegated by the Board will select an external, independent auditor to annually audit the accounts of the Global Fund (the "Auditor").

The auditor shall deliver a written report of the audit findings to the Board or a committee with powers duly delegated by the Board, which shall file it with the Supervisory Authority.

The fiscal year of the Global Fund shall be the calendar year.

Article 16. Account

Funds contributed to the Global Fund will be held in a trust account at The International Bank for the Reconstruction and Development ("World Bank") and any other account as deemed appropriate by the Board.

Article 17. Vacancies

A vacancy in the office of Chair or Vice-Chair resulting from death, resignation, disqualification or any other reason shall be filled in the same manner in which the original holder of that office or position was appointed or selected. Individuals selected or appointed to fill vacant positions shall hold such positions for the unexpired term of their predecessor.

Article 18. Dissolution and Liquidation

In the event that the Global Fund is unable to continue its activities, the Board shall notify the Supervisory Authority.

The Global Fund may be dissolved in accordance with Articles 88 and 89 of the Swiss Civil Code. T he Board shall carry out the liquidation unless it designates another party to act as a liquidator.

In the event of liquidation, the assets of the Global Fund shall be returned to the donors to be applied to similar objectives to those of the Global Fund.

The dissolution of the Global Fund shall only be carried out with the consent of the Supervisory Authority and based on a written report which sets out justification for the dissolution.

Article 19. Amendment

These by-laws may be amended by the Board at any time.

Article 20. Entry Into Force

These by-laws shall enter into force after their approval by the Board and the Supervisory Authority.