

SUBJECT: **CONSENT AGENDA: REVIEW OF CONFLICTS OF INTEREST POLICY**

Agenda item: 02g

Category: For Decision

Section A: Introduction

- At its meeting in April 2017, the Audit and Finance Committee (AFC), following a request from the Committee Chair, discussed the principles behind Gavi's Conflicts of Interest (Col) policy and process. They agreed on the need to ensure that the Col policy is aligned with best practice in managing conflicts. The AFC Chair therefore requested the Secretariat to discuss with the Governance Committee (GC), with a view to updating the policy, given that it had last been reviewed in 2012 and that Gavi had evolved since then.
- An initial desktop review of the Col policy was therefore presented to the GC at its meeting on 5 October 2017. Comments were provided by GC members and further input was sought from Alliance constituents and other relevant actors and experts.
- At its meeting on 15 February 2018, the GC noted that there would be a separation of the current policy between Board and Secretariat and that accompanying guidance and procedures would be developed for both. This is consistent with practices among international organisations including the World Bank.
- An initial draft Col policy for Governance Bodies was presented to the GC at its meeting on 13 March 2018. Further comments were then requested from Board constituencies not represented on the GC and a further draft policy presented to the GC at its meeting on 28 May 2018.
- The GC is now asking the Board to consider approval of a Col policy for Governance Bodies. Work on drafting an accompanying Secretariat Col policy is ongoing.

Section B: Background and consultation process

1. Background

- 1.1 The current Conflicts of Interest policy was last revised and approved by the Board in June 2012.

- 1.2 At the request of the Chair of the AFC in April 2017, an initial desktop review of the current Conflicts of Interest policy was presented to the GC on 5 October 2017.
- 1.3 At its meeting of 15 February 2018, the GC considered comments received from Canada, the Netherlands and the Bill & Melinda Gates Foundation. Further input was requested from Alliance constituents and other relevant actors, as well as input from recognised experts in the field. A study of industry and international Col policies was carried out, and there was engagement with an experienced independent external consultant.
- 1.4 At this meeting, GC members also endorsed a proposed approach whereby:
 - The current policy would be separated between Governance Bodies and the Secretariat, and each would be accompanied by guidance and procedures;
 - The *Col Policy for Governance Bodies* would be approved by the Board, with the accompanying guidance and procedures under the oversight of the GC; and
 - The *Col Policy for the Secretariat* would be approved by the GC, with the accompanying guidance and procedures under the oversight of the CEO.
- 1.5 A proposed structure and initial draft of the COI Policy for Governance Bodies and its guidance and procedures was presented to the GC at its meeting on 13 March 2018. Subsequently, comments on the draft documents were requested from every Governance Committee Member, and from every Board constituency not represented on the Governance Committee.
- 1.6 Comments were received from the Bill & Melinda Gates Foundation, Germany, the Italy/Canada/Spain constituency, the World Bank, UNICEF and the Norway/Netherlands/Sweden constituency. All comments were reviewed and addressed and presented to the GC at its meeting on 28 May 2018.
2. **Selected comments received on the Conflicts of Interest policy for Governance Bodies and the Guidance and Procedures for the Conflicts of Interest policy for Governance Bodies.**
 - 2.1 Some of the selected elements and comments received and responses are:
 - **Why are there two policies, one for Governance Bodies and one for the Secretariat?**

Response: The principles and rules enshrined in both policies are the same. The rationale for the separation is based on the objective of making the policy simple, responsive, user friendly, and easy to apply in practice. The aim is to simplify and address more specifically matters of each organ and for the guidance and procedures to support the operational aspect of each policy. The GC agreed to this approach on 15 February and 13 March 2018. It is consistent with practices among a number of international organisations.

- **If an Interest or a Conflict of Interest is determined to exist, why can the conflicted Member stay in the room?**

Response: As was discussed and agreed in the GC meetings of October and November 2011: “Gavi’s strength lies in the involvement and participation of the main stakeholders to immunisation and that the diversity of interests present is an asset”. Therefore, conflicts of interest are natural to the structure of Gavi. To manage this, it is proposed that the chair of the meeting, or Chair of the Board, as applicable, may have the discretion, with the assistance of the Board Secretary and Legal Director, to evaluate whether a conflicted Member can stay or should leave the room.

- **Does the chair of the meeting or Chair of the Board, as applicable, not have too much discretionary power?**

Response: In exercising their discretion, chairs are guided by the guidance and procedures which include examples and proposed courses of action in dealing with conflicts of interest situations. In addition, a chair may seek the input from the Secretary of the Board and/or of the Legal Director who would also have information on any relevant precedents.

- **Following the comments received in November 2017, “Financial Interest” was proposed to be defined as being relevant when the ownership interest was above a threshold of 2% and which was also not managed by an independent non-discretionary manager. Why was the threshold 2% and no other? Also, it is difficult to quantify if a financial interest constitutes more or less than 2% of the institution.**

Response: The threshold of 2% was suggested as a result of the comments received in November 2017. Considering the volume of comments received on this point, the threshold for a Financial Interest has been removed. It was noted that as a consequence every Financial Interest (as defined in the policy) will have to be disclosed.

- **Representatives Members have duties and responsibilities to the organisations with which they are affiliated.**

Response: Article 15 of the Statutes (“*[w]hen discharging their duties, Board members are not required to take decisions that conflict with the constitution, regulations, rules and policies of the organisations providing that member of the Board.*”) has been incorporated in Section 5.2 of the policy to provide clarification regarding what is expected of a Representative Member.

- **In case a Member moves to a position within another organisation/constituency also represented at the Board, how should this be dealt with? Establish a clear criteria, set a cooling off period or establish a restriction on nomination to the Board for at least six months, or one year?**

Response: This is addressed in Section 5.6 of the policy. It is considered that the Member could have a perceived Organisational Interest in both its current and previous organisation, and that it will therefore be considered that they would have an Organisational Interest in their former organisation for 12 months counted since the cessation of the relationship with that organisation, in any matters that might create any kind of Conflict of Interest. This would not prevent them for being appointed to the Board in their new capacity.

- Kept current Section 6.4 of the Gavi Col policy, which allows for developing country representatives to fully participate in discussions and vote on decisions, unless the Board is considering a decision specifically on programmes in the country of the Representative Member. In such case, the Alternate Board Member can represent the constituency.
- If a Member has reasonable cause to believe that another Member has failed to disclose a Conflict of Interest, he or she is encouraged in good faith to inform the Board Secretary of the basis of such belief. It was proposed to maintain this language, and not transform it into an obligation, but rather encourage disclosure based on good faith.

3. Implications

- 3.1 Every Financial Interest (as defined in the policy) has to be disclosed, without regard to the amount of the Interest.
- 3.2 Narrower approach to Interest/Conflict of Interest of Family Members – the concept of Family Member has been modified to capture every relative that lives in the same household, and leaves space to include others that because of their close relationship with the Member could create the appearance of a conflict.

- 3.3 Duty to disclose has been redefined clarifying that there is an obligation to complete a Declaration Form upon joining a Governance Body and thereafter annually and whenever an Interest/Conflict of Interest arises.
- 3.4 Simpler and more efficient means to determine when there is an Interest or Conflict of Interest that should be managed or mitigated, as clear examples of Personal, Organisational and Financial Interests have been given in the guidance and procedures.
- 3.5 The duty to disclose has been extended to all Interests/Conflict of Interest that a Member, or Family Member, might have with entities that do business with, and/or receive funding from Gavi.
- 3.6 The obligation to disclose Interests/Conflict of Interest of members of the Independent Review Committee (IRC) has been specifically clarified.
- 3.7 The guidance and procedures for the Col Policy for Governance Bodies is a living document which aims to provide members of Governance Bodies, the Board Chair and Board Committee Chairs with practical guidance around issues arising within the remit of this Col policy. It is intended to be updated as appropriate from time to time.
- 3.8 In order to implement the recommendations of the GC, and subject to approval of the Board, an amendment to Article 28 of the Statutes is being proposed, as well as an amendment to the GC Charter.
 - Article 28 currently reads

“The Board shall adopt a conflicts of interest policy for all organs of the Gavi Alliance, to preserve transparency in financial arrangements.”
 - As the Secretariat is an organ of the Gavi Alliance, the Col Policy for the Secretariat would currently require Board approval.
 - As outlined in Section 1.4, it is proposed that the GC approve the Secretariat Col Policy which would therefore require an amendment to the Statutes.
- 3.9 An amendment to the GC Charter will also be required to give the authority to the GC to approve the Col Policy for the Secretariat. This will be addressed in Doc 02e.

Section C: Actions requested of the Board

The Gavi Alliance Governance Committee recommends to the Gavi Alliance Board that it:

- a) **Approve** the draft Conflicts of Interest Policy for Governance Bodies set out in Annex A to Doc 02g, effective from 1 January 2019; and

b) **Amend** Article 28 of the Statutes to read as follows:

*“To preserve transparency in financial arrangements, the Board shall adopt a conflicts of interest policy for all organs of the Gavi Alliance, **with the exception of the Secretariat conflicts of interest policy which will be approved by the Governance Committee.**”*

Annexes

Annex A: Draft Conflicts of Interest Policy for Governance Bodies

Additional information available on BoardEffect

Appendix 1 (in May 2018 GC meeting book): Annex D to Doc 03 *Draft Guidance and Procedures for Conflicts of Interest Policy for Governance Bodies*