OIG RELEASES REPORT ON ITS INVESTIGATION INTO FOREIGN CURRENCY TRANSACTIONS ON THE PARALLEL MARKET BY A NIGERIAN PR

OIG says $0.8 million was misappropriated

PR says that the parallel market transactions were discontinued prior to the start of the audit

On 31 October 2011, the Global Fund's Office of the Inspector General (OIG) released the final report of an investigation of the Yakubu Gowon Centre for National Unity and International Cooperation (YGC), a principal recipient (PR) of four Global Fund grant in Nigeria (HIV, Round 1; malaria, Rounds 2, 4, 8).

The investigation focused on YGC's practice of conducting foreign currency exchange transactions on Nigeria's parallel currency market in order to convert Global Fund grant funds from U.S. dollars to Nigerian Naira. The investigation was triggered by the findings of an audit of 15 grants in Nigeria conducted in 2010 by the OIG (see articles in GFO 164).

The OIG said that between 2005 and 2009, YGC conducted at least 61 currency exchange transactions on the parallel currency market, involving approximately $22 million in grant funds with 35 different companies and four individuals. The transactions all related to funds from the Rounds 2 and 4 malaria grants.

The OIG investigation found that the foreign currency transactions exposed the Global Fund to unnecessary risk; and that some of the money involved (at least $824,626) was misappropriated.

The OIG defines "misappropriation" as "the knowing or intentional use of the property or funds of another person for one's own use or other unauthorized purpose, particularly by a public official, or by any person with a responsibility to care for and protect another's assets."

The OIG said that these foreign currency transactions exposed Global Fund monies to an "acute risk" of association with money laundering and other serious criminal activities. In some cases, the OIG said, "these risks materialized in the form of transactions with an entity subsequently debarred by a national authority for links to serious criminal activity, entities subject to Suspicious Activity Reports (SARs) by their banking institutions, and entities owned by Politically Exposed Persons (PEPs)."

Many PRs are required to engage in foreign exchange because they receive Global Fund grant funds in the form of U.S. dollars, wired from the Global Fund accounts held at the World Bank. However, the OIG said, most PRs conduct their exchanges through established, licensed, regulated and approved financial institutions.

The OIG said that YGC employees claimed that they conducted the currency exchanges on the parallel currency market to obtain a better exchange rate and to increase the amount of funds available for YGC projects. In an 8 July 2010, letter to OIG, the YGC Deputy Chief Executive wrote,

"What we did was done in good faith with the best intention from our heart. We were concerned that the resources at our command are not diminished through the vagaries in the foreign exchange market that will in any way affect adversely the Global Fund programme that was ameliorating the sufferings of our people."

With respect to the $824,626 that the OIG said was misappropriated, the investigation found that YGC segregated a portion of the converted funds (in Nigerian Naira) and delivered them to an entity and a bank account unrelated to the Global Fund grants. The OIG said that these amounts were not repatriated to Global Fund-dedicated accounts or used for the purposes of the programmes funded by the grants.

The OIG said that YGC officials involved in the currency exchange transactions failed to cooperate with the OIG's investigation and engaged in multiple acts of misrepresentation to OIG investigators. The OIG said that the lack of cooperation and the misrepresentations significantly lengthened its investigation and forced the OIG to expend significant additional resources, including on multiple additional in-country missions.

Whether or not KPMG, the local fund agent (LFA), informed the Secretariat of these foreign currency transactions is a matter of dispute. In any event, the OIG said, KPMG did not do so in writing, and so KPMG "cannot adequately demonstrate that it protected the Global Fund from losses and risks related to this practice in a satisfactory manner."

On the basis of the investigation, the OIG recommended that the Global Fund:

- prohibit Global Fund grant recipients from using any parallel currency market to exchange Global Fund monies, and include this prohibition in all future grant agreements;
- immediately seek to recover from YGC all missing funds and diverted proceeds;
- seek appropriate reimbursement from YGC to compensate for the costs of the investigation, including expenditures incurred relating to repeated OIG missions necessitated by the OIG as a result of what the OIG called YGC's "misrepresentations and failure to cooperate";
- immediately terminate YGC as PR and bar any future participation of YGC in any capacity in Global Fund grant programmes; and
- consider whether KPMG's failure to report appropriately on third party currency exchange transfersin Nigeria has implications in relation to its continued engagement as an LFA in Global Fund grant programmes globally.

Note: The OIG did not include the costs of the investigation in the $864,256 it identified as "losses" in the investigation report.

(Prior to the release of the final report on the investigation, the Global Fund Secretariat began the process of relieving YGC of its responsibilities as PR for the Round 8 malaria grant. The other grants for which YGC was PR have already ended.)

The OIG's investigation report contains a letter from the Global Fund Secretariat outlining risk mitigation measures that the Secretariat had already taken or were planning to take in response to the investigation.

The report also contains an undated letter from YGC commenting on the OIG's findings. YGC acknowledged that there was an element of risk in the currency transactions and said that the practice ceased in February 2009, "long before the visit of the OIG." YGC said that under Nigerian law, the use of the parallel currency market is allowed. It also said that the "so-called $824,626 in missing funds" were expended as follows: management fees ($401,702), salaries and allowances ($320,023), maintenance ($28,022) and operational expenses ($74,879). Therefore, YGC said, these amounts should not be regarded as missing.

The OIG responded (in the investigation report) that "this is the first time in many exchanges with YGC that they have come forward with this claim. Significantly, these assertions are not accompanied by any supporting documentation or further explanation. The OIG stands by its analysis of the issue, based on the evidence identified, as set forth [in the report]."

In its letter, YGC said that it was not provided with the information it needed to properly reply to the OIG's request to account for the missing funds. The OIG responded as follows:

"To the contrary, the OIG met with YGC senior officials in Lagos and disclosed the details of the $824,626 in missing funds, providing full details of the third parties to which the money was transferred, and requested an explanation. No explanation has been forthcoming. Additionally, the OIG subsequently provided the YGC senior official a formal request for documentation, and further information concerning the missing funds, and attached the relevant Transfer of Funds Forms for these monies to assist YGC in responding to this request. However, YGC did not provide any of the requested information throughout the investigation, responding only when a draft of the investigation report was submitted to them."

YGC said that the OIG report

"is obviously a criminal investigation. A number of prominent Nigerians have been included [in the investigation report] as being associated with some criminal activities. We sincerely hope that these inferences, which are clearly defamatory and liable to long and costly litigation will be deleted completely or suitably modified as they consist [of] voyages of discovery that clearly do not meet international standard and practice of investigation."

(Editor's note: The version of the investigation report released publicly does not appear to contain the names of the prominent Nigerians alluded to above.)

In its letter, YGC made the following additional points:

- It was difficult to comment on the investigation report given that a substantial portion of the report was blotted out.
- YGC was not given much time to respond to a report that took three months to prepare.
- The OIG failed to differentiate between YGC as an institution and individual officials and employees of YGC. (According to YGC, the investigation focused on the actions of two particular employees.)

YGC said that it regretted that the OIG formed the impression that YGC did not give the investigators its fullest cooperation. "Supporting documents under the custody of banks were difficult to retrieve," YGC said, "and this challenge was promptly made known to OIG investigators in various communications." YGC added, "We do not wish to recollect the embarrassing and humiliating exercise when OIG officials stormed into the YGC office in January 2011 and collected as exhibits YGC managers' laptop computers etc. for scanning."

The OIG investigation report on Nigeria, and all of the other OIG reports released on 31 October 2011, are available on the Global Fund website here. GFO offered YGC an opportunity to comment on a draft of this article, but we did not receive a response.

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