

THE FEDERAL GOVERNMENT OF SOMALIA'S RESPONSE
TO ANNEX 5.2 OF THE REPORT OF THE UNITED NATIONS
MONITORING GROUP ON SOMALIA AND ERITREA

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Executive Summary

This is the official Response of the Federal Government of Somalia (“Federal Government”) to the allegations of financial mismanagement contained in Annex 5.2 of the Report of the United Nations Monitoring Group on Somalia and Eritrea, published on 12 July 2013 (the “Monitoring Group Report”). The Federal Government retained and appointed an investigative team consisting of attorneys from Shulman, Rogers, Gandal, Pordy & Ecker, P.A. (“SRGPE”), and forensic accountants from FTI Consulting, Inc. (“FTI”), to deliver its findings and recommendations in this Response.¹ The Federal Government limited the scope of the investigation to examining allegations of financial mismanagement against the current Federal Government or current officials of the Federal Government, as set forth in Annex 5.2 of the Monitoring Group Report.

Many of the allegations in Annex 5.2 predate the Federal Government under the leadership of President Hassan Sheikh Mohamud and his Administration, yet the Monitoring Group Report issues multiple negative findings and conclusions that purport to implicate President Mohamud’s Administration. As discussed more fully below, the findings of this investigation are that Annex 5.2 of the Monitoring Group Report is deeply flawed and entirely unreliable. In fact, the Monitoring Group Report is so factually inaccurate and inexplicably biased that it likely breaches multiple investigative fact-finding standards established more than 20 years ago by the United Nations General Assembly.²

The investigative team examined and found compelling evidence rebutting each of the principal assertions of the United Nations Monitoring Group (“Monitoring Group”) in Annex

¹ Annex A contains biographies for the members of the SRGPE-FTI investigative team.

² See Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security, G.A. Res. 46/59, U.N. Doc. A/RES/46/59/Annex (9 Dec. 1991), attached hereto as Annex B. The Declaration may be found at <http://www.un.org/documents/ga/res/46/a46r059.htm>.

5.2. These unfounded assertions are summarized as follows: (1) 72% of all withdrawals from the current Central Bank of Somalia (“Central Bank”) were “made for private purposes and not for the running of Government”; (2) the current Central Bank of Somalia is a “slush fund” for corruption, operating under a “system of *fadlan* (please)” through which resources are distributed for improper private purposes and contrary to national budgets; (3) “key to irregularities has been the current Governor of the Central Bank, Abdusalam Omer”; and (4) of \$16.9 million transferred by PricewaterhouseCoopers Africa Associates Ltd. (“PwC-Africa”) to the Central Bank of Somalia in consultation with Dr. Omer (when he was an advisor to the Ministry of Finance in a prior government), “US\$ 12 million could not be traced.”³ These are the core allegations of financial mismanagement cited in Annex 5.2 of the Monitoring Group Report; thus, they were the primary focus of the investigative team’s work.

The team also examined other, equally incendiary contentions contained in Annex 5.2 of the Monitoring Group Report and found them to be thoroughly baseless as well. For example, the investigative team found no evidence to support the Monitoring Group’s allegations that the African Development Bank (“AFDB”) program for the training of government officers employed in Somalia’s Public Financial Management (“PFM”) institutions was a vehicle for corruption. To the contrary, two independent outside audit firms and the AFDB itself concluded that the program’s funds were spent on legitimate PFM capacity-building exercises, and the program yielded impressive tangible achievements.

On the whole, the investigative team concludes that the specific allegations of financial mismanagement contained in Annex 5.2 of the Monitoring Group Report are false and contrary

³ See generally Monitoring Group Report, at 154-161.

to the overwhelming weight of evidence gathered during the course of the investigation and that should have been available readily to the Monitoring Group had it simply sought to conduct an objective investigation using internationally-accepted investigative techniques. No facts could be found to support the Monitoring Group's conclusions of wrongdoing by the current Government. Instead, there is abundant evidence supporting diametrically opposite conclusions -- (1) the Central Bank of Somalia is not a "slush fund" for corrupt payments; (2) there is no "fadlan" system in place at the Central Bank of Somalia; (3) 72% of withdrawals from the Central Bank were not made for private individuals; and (4) the \$12,072,231 of funds deposited by PwC-Africa between May 2011 and April 2012 are accounted for fully. For a thorough discussion of these conclusions and the accounting procedures that the investigative team undertook, *see* Section IX.D. and Section IX.E. on Pages 35-52, *infra*, as well as Annexes C-G attached hereto.

Furthermore, the Monitoring Group's obsessive and unrelenting attacks on Central Bank Governor Omer that he was complicit in pervasive corrupt activities are contrary to all of the evidence uncovered by the investigative team. The Monitoring Group chose, for unknown reasons, to use its platform and perceived position of authority to destroy the reputation of this one man without any factual foundation whatsoever, perhaps assuming that it could hide behind the doctrine of qualified diplomatic immunity and publish defamatory accusations with impunity. But there are limits to the protection that diplomatic immunity affords, and even quasi-governmental prosecutors may be held accountable when they leap outside the boundaries of legitimate professional practice. The Recommendations appearing at the end of this Response suggest steps to achieve such accountability.

The conclusion by the Monitoring Group that they were “unable to trace \$12,072,231 USD as having been deposited in the [Central Bank of Somalia]” calls into question the basic competence and integrity of the Monitoring Group Report. Documented transactions and records of those transactions account for the entirety of the funds that the Monitoring Group staff claimed were untraceable.⁴ Conducting a proper investigation at the most elementary level, and following the United Nations’ own published fact-finding guidelines, requires reviewing and understanding key documents and interviewing knowledgeable witnesses; the Monitoring Group staff appears to have done neither.⁵ For example, the Monitoring Group purported to conduct an investigation of the Central Bank without ever attempting to contact responsible and relevant Central Bank officials or to obtain records from the Central Bank itself. Had the Monitoring Group done so, as this investigative team did, then the Monitoring Group readily would have accounted for all of the \$16,924,466 processed through the PwC-Africa mechanism during the relevant time period.

The Monitoring Group Report is replete with other glaring factual errors and conclusions lacking factual basis. Another example is the claim that 72% of funds processed through the Central Bank during the Administration of President Mohamud were released to private individuals for corrupt personal purposes. This claim is based only upon unspecified Central Bank “records,” discussions with unnamed individuals, and an inherently unreliable private report recently issued by an outspoken critic of the Federal Government who has no training or

⁴ The investigative team’s detailed accounting of these funds can be found in Section IX.E., *infra*, and in the accompanying Annexes.

⁵ In fact, several Federal Government officials stated during their interviews with the investigative team that it would have been impossible for the Monitoring Group to have understood the flow of funds to the Federal Government, and the system of documentation that has been implemented, without speaking to them.

expertise in forensic investigations.⁶ But, since the Monitoring Group neglected to contact the Central Bank or the Finance Ministry directly for records, the Monitoring Group only could have accessed certain incomplete files retrieved for them by the critic in his former capacity as a consultant to the Finance Ministry paid by the World Bank.⁷ Reliance upon obviously incomplete records from the Central Bank (procured by an avowed critic under false pretenses), and an unsubstantiated “report” issued by the same critic who, like the Monitoring Group itself, is unqualified to conduct a forensic investigation, while forgoing all attempts to gather complete information from the Central Bank and the Ministry of Finance, casts serious doubt upon the credibility, competency, objectivity, and independence of the Monitoring Group.

Central to the Monitoring Group’s narrative throughout Annex 5.2 is its lacerating criticism of Central Bank Governor Omer. An objective investigation warranted a thoughtful focused interview of Dr. Omer. The only reason that staff of the Monitoring Group met with Dr. Omer was that Dr. Omer himself requested a meeting, when he belatedly learned indirectly that the Monitoring Group had written a report and submitted it to the United Nations Sanctions Committee. The meeting, held at a restaurant in Nairobi, Kenya on 24 June 2013, was brief. The Monitoring Group did not ask him any questions about the subjects contained in the Monitoring Group Report, and the staff with whom he met were insulting and caustic. In

⁶ Monitoring Group Report, at 155 and n.6.

⁷ Indeed, the critic of Somalia, Mr. Abdirizak Fartaag, claims that he met with three staff of the Monitoring Group—Jarat Chopra, Dinesh Mahtani and Jeanine Lee Brudenell—early in 2013 and shared with them certain government documents that he had obtained through his consulting work for both the current and prior Somali governments. Mr. Fartaag refused to share these documents with our investigative team. Therefore, this investigation cannot even address the authenticity, let alone the reliability, of the records. Nor can the investigation determine whether Mr. Fartaag had authority to replicate and produce those records to third parties. Whatever the documents may have reflected, however, they could not possibly have shown that 72% of all withdrawals from the Central Bank between September 2012 and April 2013 were for corrupt purposes because of the timing of Mr. Fartaag’s work for the current Finance Ministry, the early date of his meetings with the UN Monitoring Group representatives, and the limited access to current Central Bank records that Mr. Fartaag had.

contrast, counsel conducting this investigation interviewed Dr. Omer on 8 August 2013 for more than nine hours. At the conclusion of counsel's interview, which covered not only all issues addressed in the Monitoring Group Report but also a thorough effort to understand all systems in place at the Central Bank, when asked about his reflections on the Monitoring Group Report, Dr. Omer stated that it is "regrettable [for the Monitoring Group] to create complete lies that have no good research behind them or investigation behind them and just to come out and dump so many bad things on my name just to destabilize the Government of Somalia."

Given the paucity of reliable evidence supporting the Monitoring Group's allegations of financial misconduct, and its apparent lack of effort to gather credible, direct and primary source evidence, the intended recipients of the Monitoring Group Report may well question the underlying motive and conduct of its authors. It is beyond the scope of this Response to "investigate the investigators" and determine precisely why they presented their findings so as to deliberately undermine the Somali government without any evidentiary basis. Nevertheless, one may speculate fairly that the Monitoring Group staff alleged wrongdoing in pursuit of a political or financial agenda rather than in furtherance of its mandate to investigate compliance with United Nations Security Council Resolutions.

Whatever the motivations of the Monitoring Group to put forth allegations of financial corruption against the current Federal Government that cannot be substantiated, what is crystal clear is that the Monitoring Group's allegations and purported findings have no basis in fact. This Response outlines and sets forth direct evidence and bases for findings rooted in documents and well-documented interviews of witnesses with personal knowledge. Additionally, this Response makes certain recommendations for consideration by the Federal Government relating

to the Monitoring Group Report and for the improvement of internal controls and systems relating to funds management and Central Bank operations.

I. General Background

On 1 August 2012, the mandate of the Transitional Federal Institutions ended, and the National Constituent Assembly of Somalia adopted the Provisional Constitution for the Federal Republic of Somalia. A new Parliament was selected on 20 August 2012, and on 16 September 2012, the Parliament inaugurated the Hon. Hassan Sheikh Mohamud as the first President of the Federal Republic of Somalia. President Mohamud moved promptly to appoint his cabinet, which the Parliament approved formally on 13 November 2012.

These events represented historic progress toward the establishment of a credible, democratic central government in Somalia, following more than two decades of civil war. Upon his inauguration, President Mohamud articulated a “Six Pillar” platform for the development of Somalia. High among the President’s priorities (“Pillar 2”) is reform of the Public Financial Management (“PFM”) institutions of government. President Mohamud has reaffirmed his resolute commitment to serious PFM reform on numerous occasions, emphasizing goals of transparency, sovereignty, and coordinated support from all outside stakeholders. In pursuing these objectives, President Mohamud has urged the international community to support these institutional rebuilding efforts:

What has been destroyed in a generation cannot be rebuilt overnight. In return for our commitment to transparency, we ask you for your patience, your flexibility and your realism. Creating a new PFM system is an intensely political process, at a time when the nation is still very fragile. . . . Perfection will not be achieved. But we will, I can promise you, do a much better job than anyone who has come before us in recent memory.⁸

⁸ President Hassan Sheikh Mohamud, 23 January 2013.

Beyond expressing mere aspirations to bring about PFM reform, President Mohamud and his Administration have undertaken a series of systematic and concrete steps toward achieving that reform. On 4 April 2013, the Ministry of Finance, under the supervision of the World Bank, completed a comprehensive self-assessment, releasing the Public Financial Management (PFM) Self-Assessment Report and Proposed Public Financial Management Strengthening Initiative (2013-2016).⁹ This self-assessment contains a candid review of the capacity limitations in the current PFM system and lays out a concrete plan for improvement.

In addition to identifying areas in need of improvement within the PFM system, the World Bank-sponsored assessment recognizes the existence of a credible legal framework for the processing of cash transactions through the Central Bank of Somalia and notes that President Mohamud's Administration adheres to and follows that framework:

In the FRS the issue of payment orders is the responsibility of the Accountant General who is within the ambit of the [Ministry of Finance and Planning]. All bills are paid by cash through the MoFP account with the Central Bank. It is important to note that budget execution in the period under review tended to be more centralized. Payments are executed through the Central Bank usually in cash and reports are generated on payments made to individuals on behalf of each institution.¹⁰

The self-assessment report continues: “[t]he Accountant General and the Central Bank do regular reconciliations to ensure availability of funds before payments are processed. All payments are only processed by the Accountant General after there is reconciliation with the Central Bank to ensure availability of cash.” The report concludes: “[t]he general view expressed by civil society organizations and stakeholders out of government is that in the recent

⁹ The Self-Assessment Report can be found at <http://mofep.gov.so/wp-content/uploads/2013/04/Somalia-PFM-self-assessment-report-strategy.pdf>, and a copy is attached hereto as Exhibit 1.

¹⁰ *Id.*, at 22.

past, budget execution rules were not followed. The current Government is making efforts to ensure that existing rules are complied with.” The report also concludes that “the current administration is making efforts to rebuild the systems of internal control.”¹¹

In addition to the self-assessment undertaken earlier this year, President Mohamud’s Administration proposed and adopted a “Mini-Budget” for the period 1 October 2012 through 31 December 2012, and a full budget for calendar year 2013. The 2012 Mini-Budget was “aimed at managing public revenue and expenditure, and all public monies as mandated by law[.]”¹² Even further, the 2012 Mini-Budget was “expected to follow clear and well defined budgeting procedures, which include: accountability, transparency, predictability and control in budget execution; accounting and reporting, and external oversight.”¹³ Similar objectives underlie the 2013 budget. Apart from the bold strides made to control budgeting and expenditures of public funds, major accomplishments have occurred at the Central Bank as well, including improving cash controls, modernizing payment systems, and enhancing accountability.

II. **Monitoring Group Report**

The Monitoring Group, operating under mandate of the Security Council, sets forth with specificity the fact-finding methodology it claimed to have followed to prepare its Report.¹⁴ Notably absent from the authorities to which the Monitoring Group cites to restate its mandate and reaffirm its methodology is its obligation to adhere to the Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security adopted by

¹¹ *Id.*, at 25.

¹² 2012 Mini-Budget, at II.1, attached hereto as Exhibit 2.

¹³ *Id.*

¹⁴ Monitoring Group Report, at 10.

the General Assembly on 9 December 1991 (“UN Fact-Finding Standards”).¹⁵ In establishing the standards, the General Assembly emphasized the importance of “acquiring detailed knowledge about the factual circumstances of any dispute or situation.” Several provisions of the UN Fact-Finding Standards stand out not just for their intuitive logic to ensure objectivity, but also for the principle of fundamental fairness that should attach to any investigation. One provides that “the component organs of the United Nations should endeavor to have full knowledge of all relevant facts.” Another states unequivocally that “[f]act finding should be comprehensive, objective, impartial and timely.” A third provides that “[t]he report should be limited to a presentation of findings of a factual nature.” A fourth establishes that “[f]act finding missions have an obligation to respect the laws and regulations of State in which they exercise their functions....” A fifth sets forth that “[f]act-finding missions have an obligation to act in strict conformity with their mandate and perform their task in an impartial way.” (Emphasis added.) And the last of note is that “[t]he States directly concerned should be given an opportunity, at all stages of the fact-finding process, to express their views in respect of the facts the fact-finding mission has been entrusted to obtain.” (Emphasis added.)

As discussed more fully below, the Monitoring Group, in connection with the publication of Annex 5.2, failed to adhere to each of these six standards promulgated by the United Nations General Assembly.

A. General Overview

Against the backdrop of a newly-elected Somali central Government working diligently to improve PFM systems, building upon a functional existing infrastructure, comes the

¹⁵ See Annex B.

Monitoring Group Report. The Report was formally issued to the general public on 12 July 2013 but leaked to *Reuters* by someone associated with the Monitoring Group more than two weeks beforehand. It may or may not be coincidental that a member of the Monitoring Group listed as a “finance expert” is, in reality, a foreign affairs journalist recently employed by *Reuters*, and that the vast majority of the early media articles honed in on the financial section of the leaked Report (specifically, Annex 5.2). That section, which is the subject of this Response, represented just 13 pages out of a nearly 500-page submission devoted mostly to other issues. However, the media leak spawned dozens of highly disparaging press articles focusing on Annex 5.2, which coverage did little more than take the Monitoring Group’s purported findings of financial corruption at face value and parrot them to the world. The leak by itself is suggestive that the Monitoring Group was motivated more by political and financial considerations than a genuine desire to report the truth.

The Summary section of the Monitoring Group Report describes what the Monitoring Group believed to be certain financial irregularities. The Monitoring Group claims that the new Government has done absolutely nothing to change past systems from the Transitional Federal Government (“TFG”) era that had “undermined the State-building enterprise through misappropriation of public goods.”¹⁶ The Monitoring Group alleges that “[d]espite the change in leadership in Mogadishu, the misappropriation of public resources continues in line with past practices.”¹⁷ The Monitoring Group contends that “some 80 percent of withdrawals from the Central Bank are made for private purposes and not for the running of Government,” describing the Central Bank as nothing more than a “slush fund” supporting a fraudulent “patronage

¹⁶ *Id.*

¹⁷ *Id.*, at 8.

system.”¹⁸ The Monitoring Group accuses the current Administration of President Mohamud of having no control of financial processes in the country, claiming that the officials responsible for the PFM institutions of government are incapable of changing a historically corrupt system.

The Monitoring Group also accuses the current head of the Central Bank, Governor Omer, of being “key to irregularities” at the Central Bank, suggesting complicity by him in all manner of wrongdoing both currently and in his previous capacity as an advisor within the Ministry of Finance under a prior government. The Monitoring Group is particularly scathing and vitriolic in its criticism of Dr. Omer -- mentioning his name 27 times in the course of just 13 pages and, on each occasion, asserting or insinuating that he is corrupt.¹⁹ It stands to reason that before reaching such a conclusion, any impartial and fair-minded investigation would have included a penetrating forensic review of Central Bank records and a comprehensive interview of the accused and other senior government officials. The Monitoring Group did not see fit to take these basic investigative steps, abandoning all pretense of due process.

The Monitoring Group’s assessment of the current Somali government shows none of the patience, flexibility, or understanding that President Mohamud has sought in his public statements. According to the Monitoring Group, nothing is as it should be within the Somali government, and even those who are characterized as “trying their best,” including the President

¹⁸ Monitoring Group Report, at 8; 155, at ¶ 7.

¹⁹ Not content with criticizing Dr. Abdusalam Omer in his current role, the Monitoring Group callously suggests wrongdoing on the part of Dr. Omer during his tenure with the District of Columbia government more than ten years ago. Monitoring Group Report, at 159. Notwithstanding the irrelevance of Dr. Omer’s tenure years ago with the District of Columbia government to his current service to the Federal Government, the issue can be clarified. Dr. Omer was investigated and cleared of any criminal wrongdoing. Even more significantly, Dr. Omer later returned to work for the District of Columbia government, receiving a promotion to Chief Business Officer for the District of Columbia Public Schools, and was a key member of the senior leadership team. The Monitoring Group’s incomplete reference to this non-issue accordingly serves no purpose.

himself and the Minister of Finance, are accused of either being incapable of effecting meaningful change or guilty by their association with allegedly corrupt officials whom they have placed in positions of authority.²⁰ There is no more serious accusation that can be leveled against government officials in charge of finance—that they are either corrupt themselves or incompetent to prevent the corruption of others.²¹ But the Monitoring Group makes this accusation repeatedly throughout the Report without any meaningful attempt to satisfy an evidentiary burden.

B. Specific Allegations Contained in Annex 5.2

Annex 5.2 of the Monitoring Group Report is entitled “Public financial mismanagement and corruption.” It is this Annex that purports to contain support for the conclusory statements in the Summary. The Monitoring Group begins Annex 5.2 with a blanket indictment of the Somali people: “[F]ollowing the collapse of the Government, Somalis did not consider looting national assets in customary law terms as stealing.”²² Annex 5.2 continues with a reference to a conclusion that the Monitoring Group had reached in a report dated 30 May 2012: “At the heart

²⁰ The Monitoring Group asserts that “the new regime cannot necessarily be faulted with continuing patterns of corruption per se, but can be held responsible for appointment of individuals involved in past or present corruption.” Monitoring Group Report, at 154. This appears to be a veiled reference to President Mohamud’s appointment of Dr. Omer as Governor of the Central Bank of Somalia. As to the Minister of Finance, the Monitoring Group concludes that despite making “every good faith effort to reduce the scale of *fadlan*, it is so pervasive as to be beyond his control.” *Id.*, at 155.

²¹ Charges of this magnitude only should be made when supported by a high standard of evidentiary proof. In other words, if one serving in the capacity of a prosecutor seeks to charge a senior finance official with theft of public funds, or incompetence in controlling and administering the public treasury, both of which charges carry enormous implications for the reputation of the public official and for the credibility of the government as a whole, the international community has a right to expect that diligent procedures were followed to gather supporting direct evidence, and that, in fact, such evidence is identifiable and credible. As reflected in this Response, the staff of the Monitoring Group failed this basic test, thereby failing the United Nations (its sponsor) and the Federal Republic of Somalia in the process.

²² Monitoring Group Report, at 154. A similarly biased sentiment appears in the Summary, where the Monitoring Group asserts that there is a “high level of corruption embedded in all layers of society.” *Id.*, at 19 n.23.

of this system [of corruption] is the Central Bank of Somalia.”²³ In other words, the Annex picks up on a conclusory point that the Monitoring Group had last considered more than one year (13½ months) earlier, neither describing nor evaluating progress made during the intervening period, including, as noted, the President’s efforts to reform institutions of government including those responsible for Public Financial Management.

Most significantly, because Dr. Omer assumed his position as Governor of the Central Bank of Somalia on 13 February 2013 and had no authority or influence over the Central Bank’s operations prior to that time, the Monitoring Group’s assumption that “the previously-existing *fadlan* system had not changed” is unfair and unjustified. Indeed, because the Annex recognizes that “the current Minister of Finance . . . has made every good faith effort to reduce the scale of [misappropriation],²⁴ it is, at best, premature for the Monitoring Group to conclude that the current government is incapable of addressing the problem, if it exists.

The Monitoring Group published the following additional conclusions, which, as discussed extensively below, are not supported by credible evidence:

- The Monitoring Group discusses extensively the “*fadlan* system,” which it identifies as an inherent and intractable aspect of Somali society. The Monitoring Group thus fails to countenance or meaningfully recognize progress that has been made in establishing transparency and a legitimate civil society.
- The Monitoring Group describes *fadlan* as a practice whereby government officials make payments to private parties for reasons other than the performance of their official functions. It says that *fadlan* was “endemic” in past administrations, but continues unabated under the current administration. The Monitoring Group

²³ *Id.*

²⁴ Monitoring Group Report, at 155. The complete quotation reads “while the current Minister of Finance, Mohamud Hassan Suleiman, has made every good faith effort to reduce the scale of *fadlan*, it is so pervasive as to be beyond his control without a fundamental restructuring of the system.”

alleges that eradicating *fadlan* would require “a fundamental restricting of the system.” However in the course of our investigation, we noted significant reduction in evidence of *fadlan* as it may have applied to Central Bank accounts. We attribute this to improvement in the internal controls and the overall “compliance culture” within the Central Bank’s current administration. As noted, a World Bank-sponsored assessment acknowledged that, despite its limitations, the Central Bank now has a functional framework for processing cash transactions.

- The Monitoring Group alleges that “careful analysis of the actual accounts of the [Central Bank] in its current state clearly demonstrates that deposited funds are not used for the running of the institutions of Government and the [Central Bank] does not serve as an address for this purpose.”²⁵ Our investigation reveals that the Monitoring Group did not undertake what reasonably could be characterized as a “careful analysis.” We conclude that the receipt and disposition of donor funds deposited in the Central Bank are well documented and complete.
- The Monitoring Group says that “sources of deposits into the [Central Bank] are sometimes indicated but often are not.”²⁶ Our investigation reveals that deposits and withdrawals are documented appropriately, including appropriate indications that such transactions were affected by authorized persons acting in their official capacities and for legitimate governmental purposes.
- The Monitoring Group states that “According to [Central Bank] records, payments to private individuals constitute the bulk of withdrawals” and that “during the period of the current government, between September 2012 and April 2013, 73 percent of withdrawals were made for private individuals.” The Monitoring Group characterizes the Central Bank as a “slush fund” for the *fadlan* system.²⁷ This investigation establishes that such characterizations -- although they may make for good headlines -- do not reflect current realities.
- The Monitoring Group alleges that Mr. Shir Axmed Jumcaale withdrew US\$20.5 million from the Central Bank and used the

²⁵ Monitoring Group Report, at 154.

²⁶ Monitoring Group Report, at 155.

²⁷ Monitoring Group Report, at 155.

funds for *fadlan* payments,²⁸ and that Col. Abdiqaadir Moalin Nuur withdrew US\$4.7 million with “no explanation of the purpose of the withdrawals.”²⁹ For the period of time that we examined, we have determined that Mr. Jumcaale and Col. Nuur were legitimate representatives of the Ministry of Finance and the Ministry of Defense, respectively, and that they were duly authorized to make the referenced withdrawals. (Indeed, as the designated cashiers for their respective ministries, they are the specific individuals so authorized under Somali law.) Further, we conclude that both Mr. Jumcaale and Col. Nuur withdrew the funds with proper documentation citing an appropriate purpose; specifically, for paying salaries of Ministry of Finance personnel, paying the salaries of soldiers and other military personnel and other purposes necessary for the maintenance of a functioning government.

- The Monitoring Group describes the Financial Management Agency (“FMA”), which was established in June 2009 through PwC-Africa based in Nairobi.³⁰ The Monitoring Group alleges that Dr. Omer, while a representative of the Transitional Federal Government, “began to renegotiate implementation of the terms of reference for PwC [Africa’s] role as a fiduciary to that of a “transfer agency.”³¹ The Monitoring Group then describes certain transfers of donor funds through the FMA and alleges that these transfers were poorly documented and that funds were misappropriated. More specifically, the Monitoring Group contends that they were unable to trace US\$12.07 million of transfers to PwC-Africa, of a total of US\$16.9 million. The Monitoring Group concludes that the \$12.07 million was dissipated through *fadlan*.³² Our investigation, in stark contrast, demonstrates that these sums were accounted for fully.
- The Monitoring Group alleges that, in 2009, the then Minister of Finance, Sharif Hassan, with Dr. Omer’s involvement, engaged in various transactions that resulted in US\$50,000 being paid to the personal bank account of Dr. Omer. Our review of this issue demonstrates that US\$10,000 of these funds were justifiably retained by Dr. Omer as payment for services rendered to the

²⁸ Monitoring Group Report, at 157.

²⁹ Monitoring Group Report, at 157.

³⁰ Monitoring Group Report, at 157-158.

³¹ Monitoring Group Report, at 159.

³² Monitoring Group Report, at 161.

Ministry of Finance and reimbursement for out-of-pocket expenses incurred, and the remainder was utilized for governmental purposes at the direction of the Prime Minister.

- The Monitoring Group Report discusses grants that the TFG obtained in 2009 from the African Development Bank that were administered by the “Horn Economic and Social Policy Institute” (“HESPI”). As to the latter, the authors of the Monitoring Group Report acknowledge that, “[i]n March 2011, Ernst & Young completed an audit of the funds dispersed to that date [and] found no irregularities with the bookkeeping of HESPI.”³³
- The Monitoring Group also concludes that US\$2.3 million disbursed through PwC-Africa in late 2012 could not be accounted for. We have examined these transactions and conclude that they were documented appropriately.
- The Monitoring Group Report contains allegations that the Governor Omer awarded a license for banking services to Salaam Africa Bank. The Report says that “The Monitoring Group understands that Salaam Africa Banking Group has been designated by the Security Council for targeted measures.” We have considered this issue and found that Governor Omer did not issue a banking license as alleged.

III. **The Central Bank of Somalia’s Preliminary Response to the Monitoring Group Report**

On 23 July 2013, the Central Bank published a Preliminary Response to Allegations of Corruption (“PRAC”).³⁴ The PRAC analyzed and rejected each of the allegations contained in the Monitoring Group Report and made certain key factual points, which information would have been available to the Monitoring Group had it performed an appropriate investigation. Among other things, the PRAC stated that documentation was available to support the Central Bank’s objections to the Monitoring Group Report, and that the Central Bank would retain

³³ Monitoring Group Report, at 163. It is, of course, ironic that the Monitoring Group would criticize an audit on the basis that there is a supposed lack of documentation, when documentation for its own report is sorely lacking.

³⁴ SRGPE consulted with the Central Bank in connection with the Central Bank’s Preliminary Response, but it is a document authored and released by the Central Bank itself.

experienced attorneys and forensic accountants to conduct an appropriate and comprehensive investigation. This engagement followed. The scope of our examination, therefore, was similar to that of the PRAC, but not co-extensive. Most importantly, we undertook investigative steps (including conducting interviews of key personnel and analyzing voluminous documents) that the Central Bank itself could not undertake in the short period of time available to it when preparing the Preliminary Response.

IV. **Overview of the Investigation**

Concerned about the serious accusations of financial mismanagement leveled by the Monitoring Group against the current Central Bank, its current Governor, Dr. Omer, and the existing Federal Government as a whole, the Federal Government engaged a team of experienced lawyers from SRGPE (a United States-based law firm) who conduct forensic investigations and FTI (an international forensic accounting and consulting firm) to investigate fully the accusations in Annex 5.2, determine if there is credible evidence to substantiate them, and, if so, recommend any necessary corrective actions.³⁵ The mandate from the President of Somalia to this investigative team was to conduct a professional investigation to determine whether there is any merit to the Monitoring Group's specific allegations of financial impropriety against the current Government, applying investigative techniques according to "best practices" employed in complex governmental and corporate investigations in the United States and United Kingdom, where the members of the investigative team regularly conduct such investigations focusing on financial mismanagement, internal controls, money laundering, and corrupt payments.

³⁵ Biographies for the members of the investigative team are attached as Annex A to this Response.

The only limitation set by the Federal Government for the investigative team was a requirement that the team complete all of its work, and issue a written response, within four weeks, specifically 31 August 2013. The President imposed this deadline because of the urgency he attached to the need to understand and address expeditiously allegations of the nature made by the Monitoring Group. The investigative team was invited to travel to meet personally with material witnesses and gather evidence in context, interview relevant witnesses with direct knowledge of facts, and gather all documents needed to understand the relevant financial systems and determine the veracity of the Monitoring Group's allegations. President Mohamud met personally with all persons identified independently by the investigative team and named on a witnesses list assembled by the investigative team. President Mohamud instructed each of the witnesses to provide full cooperation to the investigation.

A team of three attorneys and one forensic accountant travelled to Africa for approximately ten days, including to Mogadishu on 11 August through 13 August, to conduct interviews of material witnesses and to gather relevant documents from them and others within relevant Somali government ministries. This same team, assisted by a group of translators, investigative coordinators, and security consultants, spent seven days in Nairobi, Kenya and Mombasa, Kenya, interviewing additional witnesses and gathering further documents. The investigative team reviewed thousands of pages of documents pulled from hard copy and electronic files maintained principally by the Central Bank of Somalia, the Ministry of Finance, the Ministry of Defense, the Somali National Army, and the Ministry of Interior. A team of translators translated select documents and relevant excerpts of documents from Somali to English. The investigative team conducted a total of 14 interviews of persons affiliated with the

above-mentioned Ministries and certain third parties. In conducting its work, the investigative team reported directly to President Mohamud, who supervised the investigation and provided the team with its authority to work. The investigative team has delivered this Report to President Mohamud.

V. **Methodology**

The investigative team conducted its investigation with the goal of developing clear and convincing evidence in support of whatever findings might be reached. We conducted our investigation using techniques designed to promote completeness, objectivity, timeliness, and appropriate standards of professional skepticism, and without prejudice of any issue.³⁶ The principal approach to the investigation was to trace forensically the financial transactions challenged by the Monitoring Group through the Central Bank since the current Federal Government took office last year.

To complete the investigation, the team planned and executed procedures that we consider to be “industry standard” in investigations of this type.

Among other things, the team:

- Identified, requested, and took steps to gather relevant documents;
- Reviewed and analyzed those documents, selecting those of particular import to the issues under investigation;
- Identified and conducted interviews of witnesses with first-hand knowledge of the allegations and actual events described in the Monitoring Group Report; and

³⁶ SRGPE has an ongoing attorney-client relationship with the current government and had an attorney-client relationship with the prior government. Pursuant to this relationship, our firm has provided legal services on matters wholly unrelated to the issues described in the Monitoring Group Report.

- Exercised our professional judgment in evaluating the expertise of the members of the Monitoring Group involved in developing the allegations in the Monitoring Group Report that relate to financial corruption.

Specifically, we considered the following to be important sources of evidence:

- Physical Evidence

We obtained and analyzed relevant Central Bank and Ministry of Finance books, records, ledgers, accounts, and other physical and documentary evidence necessary to address the allegations in the Monitoring Group Report.

- Witnesses

We interviewed or met with, either on a formal or informal basis, the following individuals who are named in the Monitoring Group Report or whom we otherwise deemed relevant to the inquiry:

Witness	Role
Dr. Abdusalam Omer	Governor of the Central Bank of Somalia
Mohamud Hassan Suleiman	Minister of Finance
Ahmed Yusuf Mumin (“Siraaji”)	Accountant General
Amina Sheikh Osman	Director General, Ministry of Finance
Omar Mohamed Mohudin	Auditor General
Alphan Njeru	PwC-Africa - Advisory Leader, Government & Public Sector Director
Richard R. Kisang’	PwC-Africa - Manager, Government & Public Sector Director
Ahmed Hagi Abdullahi	Ministry of Finance Staff
Abdiqaadir Moalin Nuur	Brigade General – Deputy Commander of Somali National Army
Abdullahi Moalin Nuur	Colonel – Head of Logistics, Somali National Army
Shire Ahmed Jumcaale	Director of Finance and Administration, Ministry of Finance
Hassan Sheikh Elmi	Director of Banking Operations, Central Bank of Somalia
Abdulkadir Mohamed Osman (“Barnamij”)	First Secretary for Somali Embassy, Nairobi
Abdirizak Fartaag	Former World Bank Consultant

Following standards used in professional forensic investigations, the investigative team took comprehensive notes of each interview for inclusion in a formal Memorandum of Interview.

Additionally, certain witnesses provided signed declarations addressing particular points relevant to the scope of the investigation.

VI. **Monitoring Group Response to Request for Cooperation with Federal Government Investigation**

On 13 August 2013, Deputy Prime Minister and Minister of Foreign Affairs and International Cooperation, H.E. Fawzia Yusuf H. Adam, wrote to Ambassador Kim Sook, Chairman of the 1540 Committee, advising Chairman Sook that the Republic of Somalia engaged counsel and forensic accountants to analyze and report on Annex 5.2 of the Monitoring Group Report. Minister Adam requested Chairman Sook's assistance to facilitate an interview with "the three members of the Monitoring Group responsible for the financial mismanagement allegations ... [and to grant] access to, and [provide] copies of, all documents gathered by or relied upon by the Monitoring Group in preparing Annex 5.2 of the [Monitoring Group] Report."³⁷ The letter requested the interviews and documents during the week of 19 August 2013 and explained the strict deadline of 31 August 2013 for the investigative team to complete its review.

The investigative team received no response to Deputy Prime Minister Adam's letter during either the week of the transmittal of the letter or the entirety of the week of 19 August 2013. During the week of 19 August 2013, the investigative team began independent efforts to locate the relevant three members of the staff of the Monitoring Group. The investigative team focused its efforts first on locating Jeanine Lee Brudenell, whom the Monitoring Group held out to be the "financial expert" responsible for the investigation and work on Annex 5.2. The designation of Police Officer Brudenell as a "financial expert" seemed suspect on its face, given

³⁷ Deputy Prime Minister Adam Letter to Chairman Sook, 13 August 2013, attached hereto as Exhibit 3.

that the only information available about Police Officer Brudenell was that she is a police officer with the Minneapolis, Minnesota Police Department with no obvious training as an accountant, let alone credentials for conducting forensic financial investigations. Upon contacting the Minneapolis Police Department, the investigative team was told that Police Officer Brudenell was on “extended leave” and that the Police Department did not have any further contact information for her.

On 27 August 2013, Mr. Jarat Chopra, Coordinator, Somalia and Eritrea Monitoring Group, Security Council Resolution 2060 (2012), and lead author of the Monitoring Group Report, wrote two letters related to this investigation. One letter, directed to Deputy Prime Minister Adam, stated that “the Monitoring Group remains available at the disposal of the Federal Government of Somalia to assist it as needed.”³⁸ Counsel responded by e-mail directly to Mr. Chopra, immediately upon receipt of the letter, and requested documents and a telephone interview to occur on 28 August 2013.³⁹ Deputy Prime Minister Adam already had made known in her letter of 13 August 2013 the request for documents and interview.

Some of the language of Mr. Chopra’s letter, however, suggested both a lack of responsiveness and genuineness in his pledge of cooperation. First, Mr. Chopra wrote that he was “writing in response to [Deputy Prime Minister Adam’s] letter dated 13 August 2013, (REF: MFA/ODPM/048/2013) circulated on 15 August 2013 to the Security Council Committee....” Deputy Prime Minister Adam’s letter made clear the timing of the request for documents and interviews of relevant staff of the Monitoring Group; so, it is unclear why Mr. Chopra required

³⁸ Chopra Letter to Deputy Prime Minister Adam, 27 August 2013, attached hereto as Exhibit 4.

³⁹ Schulman Email to Chopra, 27 August 2013, attached hereto as Exhibit 5.

12 days to send what amounted to a short three paragraph letter expressing the Monitoring Group's availability "to assist [the investigative team] as needed."

Second, the letter references that "[t]he team engaged by the Federal Republic of Somalia, comprising the law firm Shulman Rogers and FTI Consulting, has been in Nairobi, Kenya for much of August 2013. The Monitoring Group has been available to meet with the team, but has not been contacted." Deputy Prime Minister Adam's letter made no mention whatsoever of either Shulman Rogers or FTI Consulting. And, while representatives of Shulman Rogers and FTI Consulting were in Nairobi, Kenya for a total of seven days bridging the first and second full weeks of August, the investigative team certainly was not in Nairobi, Kenya for "much of August 2013." Moreover, the reason for Deputy Prime Minister Adam's letter to Chairman Sook was to arrange cooperation because the precise whereabouts of and contact information for relevant members of the Monitoring Group was unknown to the investigative team. So, if the "Monitoring Group has been available to meet with the [investigative] team," and if Mr. Chopra, who is in Kenya, knew that the "team" was in Kenya and was aware of the 15 August 2013 letter requesting the Monitoring Group's documents and interviews during the week of 19 August, it was incumbent upon Mr. Chopra to communicate sooner with Deputy Prime Minister Adam or the investigative team.⁴⁰

⁴⁰ When Mr. Chopra did not respond at all on 28 August 2013, Counsel wrote a letter to Mr. Chopra, in care of the Secretariat of the 1540 Committee, reiterating the request for an interview of Mr. Chopra, repeating the request for contact information for the Minneapolis Police Officer who was a member of the Monitoring Group team and delivery of all documents. The Security Council Affairs Division acknowledged receipt of the letter. *See* Frenkel Letter to Chopra, 28 August 2013; Gillingham e-mail to Frenkel, 29 August 2013, attached hereto as Exhibit 6. Counsel intentionally waited the entirety of 28 August 2013 before transmitting the follow-up request in order to afford Mr. Chopra the opportunity to respond on his own. The letter to Mr. Chopra re-urged the request for prompt and immediate cooperation as follows: "[a]s we complete our preparation of our investigative findings and recommendations relating to the Report of the United Nations Monitoring Group on Somalia and Eritrea ("UNMG") issued on 12 July 2013, we felt it appropriate and consistent with principles of fairness and completeness to afford you another opportunity (as you declined by your silence the offer for today) tomorrow, on 29 August 2013, to

VII. PwC-Africa's Response to Request for Cooperation with Federal Government Investigation

More than half of the paragraphs of Annex 5.2 refer expressly to PwC-Africa, which, on 29 June 2009, executed a Contract for Consultants' Services with the Transitional Government of Somalia ("PwC-Africa Contract"). Additional paragraphs contain the Monitoring Group's discussion of PwC-Africa's central role from the date of the PwC-Africa Contract to present to transfer to and administer international donor funds for the benefit of Somalia. Accordingly, the investigative team sought the assistance and cooperation of PwC-Africa. As discussed in Annex D to this Response, PwC-Africa provided only bank records and certain schedules. PwC-Africa's decision not to cooperate with the investigation thus limited the scope of review and analysis.

VIII. Monitoring Group Mandate, Methodology, and Team Composition

*The decision by the competent United Nations organ to undertake fact-finding should always contain a clear mandate for the fact-finding mission and precise requirements to be met by its report. The report should be limited to a presentation of findings of a factual nature.*⁴¹

There is no explicit directive or mandate for the Monitoring Group to look at public finance management as a separate topic, either in the Resolution (2060) which required the preparation of this Monitoring Group, or elsewhere in prior Security Council resolutions or directives. Prior to 2012, when it has come to the Monitoring Group examining financial activity, a common thread through prior Monitoring Group-related resolutions and most all Monitoring Group reports is that such activity predominantly is documented and discussed in the

permit the investigative team to conduct a comprehensive telephone interview of you and to forward the requested documents." Mr. Chopra did not respond at all to the letter.

⁴¹ Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security, ¶ 17 (1991).

context of how money is generated to fund acts directly connected to violating the arms embargo. The current report strays far from any such context.

The investigation, analysis, and findings contained in the Monitoring Group Report appear to go well beyond the Monitoring Group's mandate, far exceed a simple reporting of factual findings, and can be perceived to undermine the Federal Government's PFM reform efforts.⁴²

IX. **Findings of Fact and Conclusions Drawn From the Investigation**

Based on our review and analysis of the evidence gathered during the course of our investigation, we make the following findings of fact and reach the following conclusions.

A. **There is Currently a Functional Infrastructure in Place to Manage Somali Government Cash Flows.**

A view of Somalia's Public Financial Management ("PFM") system through the jaded lens of the Monitoring Group would suggest that Somalis intrinsically lack the capacity and trustworthiness to operate a functioning financial system. The Monitoring Group Report portrays Somalis as unshakably inept, corrupt, and devoid of the basic skills to manage their own affairs. While no system is perfect, and this Response in no way contends that Somalia has a perfect PFM system, there is a functional PFM system in place rooted in law and procedure, including a system of internal controls. To the extent improvements are needed, it is unrealistic to expect that a system dormant during more than two decades of civil war could reactivate seamlessly and overnight.

⁴² For a complete analysis of the history of the Monitoring Group mandate, methodology, and personnel, *see* Exhibit 7.

The Somali PFM system is administered through the Ministry of Finance and Planning and the Central Bank, with checks and balances provided by an Accountant General and an Auditor General. In order to address the specific allegations in the Monitoring Group Report, it is important first to understand the Somali PFM system at a macro level. The Monitoring Group Report fails to address wholly what the responsibilities of the various interrelated PFM agencies are, and how, if at all, those agencies factor into the operative PFM system. The Monitoring Group Report seeks to depict a system where the coffers of the Central Bank are simply open for access to any and all without rhyme or reason. However, a review of the actual system and procedures in place paints an entirely different PFM landscape.

i) **The Ministry of Finance and Planning**

The Ministry of Finance and Planning (“Ministry of Finance”) has overall responsibility for fiscal management of the Somali economy.⁴³ All payment requests from Somali government agencies route through the Ministry of Finance and are subject to a series of approvals. The Monitoring Group Report does not discuss these procedures or required approvals. Incredibly, the Monitoring Group never sought to interview either the Minister of Finance or responsible members of his senior staff about how the Ministry operates and the procedures by which payments are processed.

ii) **The Central Bank of Somalia**

The Monitoring Group Report contends that the Central Bank is at the heart of “systematic misappropriation, embezzlement, and outright theft of public resources[.]”⁴⁴ The Central Bank, as it is presently constituted and operated, is not at all what the Monitoring Group

⁴³ Public Financial Management (PFM) Self-Assessment Report (2013-2016), attached hereto as Exhibit 1.

⁴⁴ Monitoring Group Report, at 154.

contends. The Central Bank has a long history in Somalia and is central to the revitalization and rebuilding of Somalia's economy.

The Central Bank draws its legal authority from legislation dating back to 1960. Decree Law No. 6 of 18 October 1968 provides that the Central Bank "shall be guided in all its actions by the objectives of fostering monetary stability, maintaining the internal and external value of the Somali shilling, promoting credit and exchange conditions conducive to the balanced growth of the economy of the Republic, and within the limits of its powers, it shall contribute to the financial and economic policies of the State."⁴⁵

The Central Bank of Somalia Act, Law No. 130 of 22 April 2011, reaffirms the Central Bank of Somalia as a legal entity responsible for "any type of central banking function."⁴⁶ The current functions of the Central Bank include: (a) formulating, implementing and being responsible for monetary policy and implementing the foreign exchange policy; (b) holding and managing the foreign exchange reserves of Somalia; (c) licensing, regulating, and supervising all banks and financial institutions so as to foster liquidity, solvency, and proper functioning of a stable financial system; (d) formulating and implementing such policies as to best promote the establishment, regulation and supervision of efficient and effective payment, clearing, and settlement systems; (e) where appropriate, administering payment, clearing, and settlement systems; (f) acting as banker and adviser to, and as fiscal agent for the Federal Government and public entities; (g) acting as the sole issuer of legal tender Somali currency notes and coins; and

⁴⁵ Article 3 of the Decree Law No. 6 of 18 October 1968, attached hereto as Exhibit 8.

⁴⁶ Part II of The Central Bank of Somalia Act Law No. 130 of 22 April 2011, attached hereto as Exhibit 9.

(h) compiling, analyzing, and publishing the monetary, financial balance of the payment statistics and other statistics covering various sectors of the national economy.⁴⁷

The Monitoring Group casts the Central Bank as a mere “slush fund” mechanism for wrongdoers. Critically, however, although the Monitoring Group attributes most of the alleged financial corruption to the Governor of the Central Bank, the staff of the Monitoring Group never consulted the Governor or any other current Central Bank employee about how the Central Bank operates and how payments are in fact processed. Put differently, the Monitoring Group seeks to eviscerate an institution and its systems about which it neither had nor sought substantive knowledge.

iii) The Accountant General

Article 29 of the Decree 29 December 1961, No. 2 Financial and Accounting Procedure of the State creates the office of the Accountant General.⁴⁸ Article 30 provides that the Accountant General shall “(a) manage the accounts of the State; (b) control the accounts of each Ministry; (c) exercise supervision over the correctness of the receipts and payments of public money, the management of cash and stores, the handling of public money, securities, stamps, and other moveable property of the State; and (d) exercise any other duty that may be attributed to him by law or regulation.” The Accountant General is involved in every payment request made through the Ministry of Finance before it reaches the Central Bank.

The Monitoring Group did not deem it worthwhile to obtain, and it does not explain why it did not obtain, the Accountant General’s insight into the process currently in place for managing government payment requests. The failure to do so is evident in the Monitoring Group

⁴⁷ *Id.*

⁴⁸ Attached hereto as Exhibit 10.

Report, as it lacks any reference to or analysis of the detailed documentation required for payment processing. In response to inquiry from this investigate team, the Accountant General provided a signed declaration that included the following:

No person from or representative of the United Nations Monitoring Group on Somalia [] ever contacted me, spoke with me or met with me about the records associated with the Excerpt. I am of the opinion that it is not possible for the Monitoring Group to understand – it cannot understand – the flow of funds through PriceWaterhouseCoopers Africa Associated Limited [] to the Somali Government without talking to me in my role as the Accountant General. The Report claims, at paragraph 23, that the Monitoring was “unable to trace 12,072,231 USD as having been deposited in the [Central Bank of Somalia (‘CBS’)].” The Office of Accountant General had and has the records that account for the receipt and disbursement of foreign aid to Somalia, including sums disbursed by PwC-Africa, which in turn would include the sum the Report references as \$16,924,446 (USD).⁴⁹

iv) The Auditor General

Article 1 of Law 34 on the Magistrate of Accounts creates the office of the Auditor General. The Auditor General is tasked with conducting pre and post audits of government financial transactions and audits of the annual financial statements of the Federal Government and the Ministries. The Monitoring Group Report fails to cite to any first-hand review or analysis of the Auditor General’s reports.

v) Ministry Cashiers

The Monitoring Group Report portrays cashiers from the Ministry of Finance and from the Somali Army as rogue thieves withdrawing tens of millions of dollars for their own private use. However, the use of Ministry of Finance cashiers to effectuate the withdrawal of money from the Central Bank is specifically required by Article 10 of the Decree Law No. 317 of 17

⁴⁹ Declaration of the Accountant General, attached hereto as Exhibit 11.

October 1962.⁵⁰ Under that law, cashiers are to “receive, keep, and pay out public monies and to register these transactions in a cash book[.]” The Monitoring Group failed to interview the cashiers whom it disparaged in its Report to understand the reasons for the withdrawals that they handled under the express statutory authority of Decree Law No. 317, and the Monitoring Group refused to analyze the cash books and supporting documents for the transactions in question.

B. There is a Credible System in Place to Document Somali Government Cash Flows.

The Monitoring Group overlooks the detailed procedures that are in place governing the withdrawal of funds from the Central Bank. These procedures, while not perfect, inject a fair degree of transparency and accountability into the existing PFM system. They operate as follows⁵¹: The Ministry or government agency that requires a withdrawal to pay for an expense prepares an expenditure warrant, known as the F-16 Form, stating the exact amount and purpose of the expense. The F-16 Form is then sent to the Director of Budgets and Operations of the Ministry of Finance for approval. The Director of Budgets and Operations of the Ministry of Finance is responsible for determining whether the expense is within the Ministry or government agency’s budget. If it is, then the Director of Budgets and Operations signs and stamps the F-16 Form. The F-16 Form is then sent to the Accountant General for approval. The Accountant General also verifies whether the expense is within the specific Ministry’s budget. Upon the Accountant General’s review and stamp of approval, the F-16 Form is sent to the Auditor General for further review and approval. The Auditor General also reviews to determine whether the expense is within the budget and ensures that the money is properly allocated for

⁵⁰ Attached hereto as Exhibit 12.

⁵¹ Interview with Sirraaji, Mogadishu, 11 August 2013; Interview with Amina Sheikh, Mogadishu, 12 August 2013.

expenditure. The Auditor General then signs and stamps the F-16 Form and returns it to the Accountant General and to the originating Ministry or government agency for filing.

The requesting Ministry or government agency then prepares three copies of a payment voucher, known as the F-3 Form. All three copies of the F-3 Form, together with supporting documentation for the expense, are then sent back to the Accountant General for approval. Once the Accountant General reviews and approves the F-3 Form, one copy is sent back to the requesting Ministry or government agency, and one copy is sent to the Central Bank of Somalia. Upon the submission of the F-3 Form to the Central Bank, the Accountant General posts the expense into the Ministry of Finance cash book. Finally, upon receipt of the F-3 Form, the Central Bank will disburse the requested funds to the authorized cashier or representative of the requesting Ministry or government agency.

A flow chart showing the application of the forms appears as Annex E.

C. **In its Few Months of Existence, the Federal Government Has Taken Meaningful Action to Improve the Capacity of PFM Institutions of Government.**

While the Monitoring Group Report contends that the current Administration has no control over the PFM system, President Mohamud's Administration, in fact, has made serious progress in its short time in office. Examples of the milestones achieved by the Administration include conducting the PFM Self Assessment⁵² and obtaining Parliamentary approval of the Mini-Budget for the Fourth Quarter of 2012 and of the Budget Proclamation Act of 2013. The President's objective for the 2012 Mini-Budget was "managing public revenue and expenditure,

⁵² Public Financial Management (PFM) Self-Assessment Report (2013-2016), attached hereto as Exhibit 1.

and all public monies as mandated by law[.]”⁵³ Even further, the 2012 Mini-Budget was “expected to follow clear and well defined budgeting procedures, which include: accountability, transparency, predictability and control in budget execution; accounting and reporting, and external oversight.”⁵⁴

The Monitoring Group purports to analyze how Somali expenditures and revenue are accounted for, yet it fails to acknowledge the thorough and detailed budget framework that has been installed. Instead, the Monitoring Group Report refers to the fourth quarter budget of 2012 in passing and incorrectly analyzes donor funds processed through PwC-Africa. The allegations in the Monitoring Group Report, that deposited funds are not being used for the running of Somali governmental institutions, is further belied by express language in both the 2012 Mini-Budget and 2013 Budget. The budgets provide clear directives for the withdrawal of funds from the Central Bank. Specifically:

No payment shall be made by any public body unless, in addition to any other voucher or certificate required, the head of the public body or other person authorized by him certifies:

a) In the case of a payment for the performance of work, the supply of goods or the rendering of services:

i. That the work has been performed, the goods supplied or the services rendered, and that the price charged is according to the contract, or if not specified by the contract, is reasonable;

ii. That a payment is to be made, under the terms of the contract, before the completion of the work, delivery of the goods or rendering of the service, that the payment is according to the contract; or

⁵³ 2012 Mini-Budget, at II.1, attached hereto as Exhibit 2.

⁵⁴ *Id.*

iii. That, in accordance with the procedures prescribed by the Ministry, payment is to be made in advance of verification, that the claim for payment is reasonable; or

b) In the case of any other payment, that the payee is eligible for or entitled to the payment.⁵⁵

The 2012 Mini-Budget and 2013 Budget are tangible examples of the transparency and financial accountability implemented by President Mohamud's Administration. The Monitoring Group Report's proclamation that no such transparency and accountability exists is simply without basis or merit.

Similarly, under the current Administration and at the direction of Governor Omer, the Central Bank has achieved significant capacity-building milestones, including⁵⁶:

- Publishing its first Annual Report in over 20 years;
- Publishing its first quarterly and bi-annual reports in 20 years;
- Installing a sophisticated biometric payroll system for the payment of employees;
- Initiating and drafting a five-year strategic planning process covering the years 2013-2018;
- Initiating information technology upgrades, including reviving the Central Bank's Swift capabilities, thereby allowing the Bank to conduct its business overseas and with its corresponding banks; and
- Recruiting credentialed professionals to join the Bank, including two senior economists.

The Office of the Presidency, the Ministry of Finance and Planning, and the Central Bank do not contend that their work is finished in setting up a modern PFM system. PFM reform is an

⁵⁵ 2012 Mini-Budget, at I.14, attached hereto as Exhibit 2; 2013 Budget, at I.14, attached hereto as Exhibit 13.

⁵⁶ Central Bank of Somalia Progress Report, July 2013, attached hereto as Exhibit 15.

essential component of the Administration's *New Deal* program. Notably, the PFM reform seeks to⁵⁷:

- Improve transparency and openness of the national budget process;
- Enhance fiscal discipline through internal and external controls;
- Focus public expenditure on priority areas of Government programs;
- Enhance efficiency and effectiveness of public expenditures; and
- Strengthen overall financial management and accountability.

D. The Central Bank Is Not a “Slush Fund” for Corruption.

The Monitoring Group contends that “some 80 percent of withdrawals from the Central Bank of Somalia are made for private purposes and not for running the Government.”⁵⁸ It further claims that the Central Bank is being used as nothing more than a “slush fund” to support a fraudulent “*fadlan*” system whereby payments are made to individuals upon request.⁵⁹ As examples, the Monitoring Group asserts that, between 2010 and 2013, more than US\$25 million in public funds were disbursed to two individuals—Shire Axmed Jumcaale and “Colonel”

⁵⁷ Public Financial Management (PFM) Self-Assessment Report (2013-2016), attached hereto as Exhibit 1.

⁵⁸ Monitoring Group Report, at 24, 155. The Monitoring Group purports to rely on “CBS Records” for its computation of percentages of withdrawals allegedly made by individuals for corrupt purposes. However, the Monitoring Group Report fails to acknowledge what records were reviewed and what methodology was used to calculate the proposed percentages. Instead, the Monitoring Group Report refers to an article prepared by Abidirizak Fartaag from 21 March 2013. Mr. Fartaag’s article also fails to identify what records were in fact reviewed and what methodology was utilized to make his assertions.

⁵⁹ In Footnote 3 on Page 155 of the Monitoring Group Report, the Monitoring Group contends that the Minister of Finance, Mohamud Hassan Suleiman, was interviewed on 12 April 2013 and confirmed the “*fadlan*” system and his efforts to reduce its scope. However, in actuality, the Monitoring Group never conducted an interview, formal or informal, with Minister Suleiman. Instead, as Minister Suleiman explained during his formal interview in the Federal Government investigation, during the Monitoring Group’s interview of the Prime Minister, Minister Suleiman happened to be present at the Office of Prime Minister. Minister Suleiman confirmed to our investigative team that he had a coincidental and brief encounter with staff of the Monitoring Group. This was the only encounter he had with the Monitoring Group, and they never had any discussion concerning financial matters, let alone about a “*fadlan*” system. Interview with Mohamud Hassan Suleiman, Mombasa, 15 August 2013.

Abdiqaadir Maolin Nuur—who allegedly misappropriated those funds for non-governmental purposes. Our investigative work focused on these alleged “*fadlan*” payments to the extent that they were purportedly made between October 2012 through July 2013, *i.e.*, during the current Federal Government administration. A careful review of the procedures applied for the withdrawal of the funds in question, and the documentation associated with the withdrawals, thoroughly rebuts the allegations of the Monitoring Group as to this time period.⁶⁰

As set out in Section IX.B, *supra*, in order to withdraw funds from the Central Bank, a Ministry or government agency requesting the expense is required to submit a F-16 Form detailing the amount and nature of the expected expense. The request is reviewed and approved by the Director of Budgets and Operations of the Ministry of Finance, the Accountant General and Auditor General. Once approved, a payment voucher, or F-3 Form, is submitted by the originating Ministry or office to the Accountant General for approval. The payment voucher is then sent to the Central Bank, which disburses funds to a designated cashier for use by the originating office or Ministry. Their duty as designated cashiers is the sole reason Mr. Jumcaale and General Nuur took custody of funds for their agencies, and this proved to be an extremely risky undertaking for them—indeed, on many occasions, life threatening—because of the prevailing security conditions in Mogadishu.⁶¹

⁶⁰ Indeed, we have determined that no funds whatsoever were withdrawn by Abdiqaadir Maolin Nuur during the period of our analysis, contrary to the Monitoring Group’s claim that he withdrew funds from “2010-2013.” *See, e.g.*, Interview of General Abdiqaadir Maolin Nuur, 13 August 2013, Mogadishu. In fact, Abdiqaadir Maolin Nuur, who is a General in the Somali National Army (not a Colonel as the Monitoring Group labels him), ceased making withdrawals by September 2012, when cashier responsibilities for the Somali National Security Forces were transferred to Abdullahi Moalin Nur.

⁶¹ General Abdiqaadir Maolin Nuur maintained a cashbook documenting his withdrawals from the Central Bank and processing of payments for soldier salaries and supplies. According to General Nuur, the cashbook had literally been maintained and carried by several others who had been killed before General Nuur’s eyes in the course of their duties handling cash for the TFG government. The Monitoring Group never bothered to interview General Nuur, so they did not have the opportunity (as did our investigative team) to review the tattered and blood-stained cashbook

In his interview on 12 August 2013, Hassan Sheikh Elmi, Director of Operations at the Central Bank, explained the precise withdrawal process within the Central Bank. To withdraw from the Single Treasury Account, a member of the Accountant General's office provides the Central bank with a F-3 Form payment voucher approved by both the Accountant General and Ministry of Finance. A Central Bank secretary stamps it, gives it to the Treasury section of the Bank to check for completeness, then provides it to a supervisor, who prepares a transmission slip. A Ministry cashier with proper identification signs for the money to be released, at which time the Central bank pays out the money and records the cashier to whom the funds were given to.

The Central Bank maintains concurrent paper and electronic cash book ledgers in which all deposits and withdrawals from the Central Bank Single Treasury Account are recorded and maintained on a rolling basis as transactions occur.⁶² The Central Bank's electronic system, a software system called Peachtree, has been in use by the Central Bank since 2008. For each withdrawal, the Central Bank ledger provides details regarding the date, associated voucher numbers, transaction description, amount of funds disbursed, as well as the rolling balance of the Single Treasury Account.⁶³

During his interview on 11-12 August 2013, Shire Ahmed Jumcaale, the individual singled out by the Monitoring Group as having stolen more than \$20 million in cash from the

and consider the extent to which it reflected a good faith effort to account for public funds in the midst of a guerrilla war. Instead, by referencing General Nuur in the section of its Report entitled "Public financial mismanagement and corruption," the Monitoring Group cavalierly and without any factual basis insinuates that all funds carried by him were misappropriated. It is curious that the Monitoring Group would conclude that "[t]here is no further explanation of the purpose of the withdrawals," Report, at 157, when it made no effort to obtain such an explanation from General Nuur himself, either through a personal interview or inspection of the military records that he maintained.

⁶² Interview of Ahmed Yusuf Mumin ("Siraaji"), Accountant General, Mogadishu, 11 and 12 August 2013.

⁶³ Central Bank Cashbook Ledger, attached hereto as Exhibit 16.

Central Bank for personal purposes, stated that he would always transport money from the Central Bank to other ministries or agencies based on rigorous documentation, including all requisite F-3 and F-16 Forms.⁶⁴ He did so under the express authority of Article 10 of Decree Law No. 317, dated 17 October 1962, which states that cashiers are to “receive, keep, and pay out public monies and to register the transaction in a cash book.” In such instances, while the Central Bank ledger identifies Mr. Jumcaale as the recipient of the money but not the government agency on whose behalf he collected the money, the investigative team was able to corroborate on a testing basis the veracity of Mr. Jumcaale’s assertion that proper documentation was utilized and that such documentation disclosed a legitimate governmental purpose for the withdrawals.

The Central Bank ledger contains a description for each transaction, which details the cashier and Ministry account from which the funds were withdrawn. In many instances, the funds were withdrawn by the Ministry of Finance for the benefit of, and in relation to a voucher from, another Ministry, such as the Ministry of Defense. In such cases, the description field in the ledger was not intended by the Central Bank to be an indicator of the Ministry which ultimately benefited from the funds. Paragraphs 6 and 7 of Annex 5.2 in the Monitoring Group Report purport to rely on an analysis of Central Bank records to draw a series of conclusions regarding the withdrawals of Central funds, most notably that “payments to private individuals constitute the bulk of withdrawals” from the Central Bank. The investigative team was not provided with the claimed Central Bank data used by the Monitoring Group in reaching those

⁶⁴ The Monitoring Group Report identifies two principal individuals whom they contend withdrew funds from the Central Bank for private uses during the Administration of President Mohamud, Mr. Jumcaale and General Nuur. We found that General Nuur did not withdraw any funds during the relevant time period.

conclusions because the Monitoring Group refused to cooperate with the investigative team's requests for such records. However, the purpose and relevant government agency related to the monies withdrawn from the Central Bank cannot be determined from Central Bank records alone. Rather, one must review the underlying documents, such as the F-16 and F-3 Forms voucher support and/or records maintained by the Accountant General, which the Monitoring Group does not appear to have reviewed.

In order to determine the purpose of the withdrawals, it was necessary for the investigative team, as a basic forensic accounting matter, to review the underlying accounting documentation and other records maintained by the Accountant General in addition to records maintained at the Central Bank. The team requested supporting documentation for every withdrawal from four Somali ministries, consisting of the Ministry of Defense, Ministry of Interior, Office of the Prime Minister, and Office of the Presidency over the period of October 2012 to June 2013. This constituted a sample of 310 transactions representing approximately 26% [by value] of the total withdrawals from the Central Bank during the aforementioned period. The investigative team's testing of these 310 transactions entailed ensuring that the Central Bank could produce underlying support for each transaction, whether the underlying support, such as the F-3 Form payment vouchers, identified an official Somali agency or Ministry, and whether the amount of each withdrawal matched to Central Bank records.⁶⁵

Of these transactions, the investigative team further selected a sample of 16 withdrawals amounting to 5% of the total Central Bank withdrawals during the period under review for

⁶⁵ See Annex F which is a transaction reconciliation based on records provided by the Accountant General and Central Bank.

further testing. For these 16 transactions, the investigative team reviewed the underlying documentation to determine the nature and purpose of the transaction.⁶⁶

The following table summarizes the Central Bank withdrawals related to the four ministries selected for testing, along with the nature of the associated expenses as tracked by the Accountant General:

	Ministry of Defense	Ministry of Interior	Office of the Presidency	Office of the Prime Minister	Sample Total
Count of Transactions	38	54	75	143	310
1111 Salaries	\$103,662	\$258,368	\$761,835	\$261,860	\$1,385,725
1113 Allowance	100,200	182,200	397,600	416,000	1,096,000
1121 Office Supplies	10,400	3,000	119,920	170,000	303,320
1122 Temporary Employee Salaries	-	-	-	140,307	140,307
1123 Construction & Maintenance	-	-	21,000	-	21,000
1124 Gas and Oil	10,355	3,000	215,000	188,000	416,355
1126 Rent	-	3,000	-	-	3,000
1127 Traveling	37,000	43,450	371,300	100,000	551,750
1128 Utilities	506,791	6,000	143,000	182,667	838,458
1129 Other Services	-	48,000	100,000	115,000	263,000
1182 Operation and Capital Cost	258,700	3,495,050	-	-	3,753,750
411 Contingency	35,000	5,000	611,335	2,801,933	3,453,268
Sample Total	\$1,062,108	\$4,047,068	\$2,740,990	\$4,375,766	\$12,225,932
			Total CBS Withdrawals in Period		\$46,229,928
			Percent of Total CBS Withdrawals in Period		26%

The results of this exercise showed that there was an audit trail for all 310 withdrawals in the investigative team’s sample showing that all withdrawals were made by authorized officers of government for stated purposes that were related to governmental operations. Such audit trail generally included approved F-3 Forms, Form F-16 Forms, and other supporting documentation. The results of the analysis refute the assertions set out in paragraph 7 of Annex 5.2 of the Monitoring Group Report that Central Bank records purportedly show “private individuals

⁶⁶ See Annex G, which shows the transactions reviewed and underlying support relied upon.

constitute the bulk of withdrawals.” This is simply incorrect. The Monitoring Group is also incorrect when it asserts in paragraph 6 of Annex 5.2 that “withdrawals are made for an individual ostensibly associated with a ministry, but it is unclear if that individual is acting in a private capacity, on behalf of a minister privately, or if there is a legitimate operational cost for the ministry.” The investigative team’s analysis demonstrates that the Central Bank’s accounting records, together with the underlying back-up documents, explain how the monies withdrawn will be used, as well as the Ministry or government agency responsible for such expenditure.

For every withdrawal selected, the Central Bank was able to provide supporting voucher documentation. In all cases, the investigative team found the supporting vouchers relied upon by the Central Bank detailed legitimate government expenses, and tied directly to the amounts recorded in the Central Bank ledgers. As expected, based on the investigative team’s understanding of Central Bank recordkeeping, many of the Central Bank withdrawals selected were linked to an individual Ministry cashier in the Central Bank ledger, but in no instances did the supporting vouchers indicate that the withdrawal or expenditure was for the personal benefit of the cashier withdrawing the funds or for any other non-governmental purpose.

The Monitoring Group’s allegations concerning a “*fadlan*” system whereby private individuals simply can withdraw money from the Central Bank for their own illegitimate purposes are simply not supported by the facts. It is important to note that while the Report contends to rely on “[m]ultiple individuals working at the Central Bank and Ministry of Finance interviewed by the Monitoring Group in 2012 and 2013, confirm[ing] that these withdrawals are for individual *fadlan* payments[,]” the investigative team learned that the Monitoring Group did not speak with anyone with authority or pertinent responsibility at the Central Bank or the

Ministry of Finance. The Monitoring Group did not interview the two individuals it contends misappropriated more than \$25 million (USD) from the Central Bank.⁶⁷ The Monitoring Group did not interview the Governor of the Central Bank with regard to these transactions.⁶⁸ The Monitoring Group did not interview anyone currently within the Ministry of Finance.⁶⁹ The Monitoring Group did not interview the Accountant General to ascertain how payment requests for the two individuals could have been approved.⁷⁰ The Monitoring Group did not interview the Auditor General to discuss how these alleged “*fadlan*” payments passed audit review.⁷¹ In fact, during the seven days on which the investigative team interviewed witnesses in Nairobi, Mombasa, and Mogadishu, we could not find one person whom the Monitoring Group interviewed substantively concerning financial matters.

While no accounting system is perfect, and there is always further analysis that could be done to investigate the veracity of each financial transaction through the Central Bank between October 2012 through July 2013, we found no evidence to support the Monitoring Group’s thesis that private individuals have been withdrawing funds from the Central Bank for non-governmental purposes.⁷² Accordingly, the Monitoring Group’s contention that there is pervasive fraud and corruption occurring at the Central Bank that would allow private

⁶⁷ Interview with Shire Axmed Jumcaale, Mogadishu, 11 August 2013; Interview with Colonel Abdiqaadir Maolin Nur, Mogadishu, 13 August 2013.

⁶⁸ Interview with Governor Abdusalam Omer, Nairobi, 8 August 2013.

⁶⁹ Interview with Minister Mohamud Hassan Suleiman, Mombasa, 15 August 2013.

⁷⁰ Interview with Interview of Ahmed Yusuf Mumin (“Siraaji”), Accountant General, Mogadishu, 11 and 12 August 2013.

⁷¹ Interview with Auditor General, Mogadishu, 12 August 2013.

⁷² It was beyond the scope of our investigation to do third party testing of all withdrawals from the Central Bank to confirm that each dollar was spent efficiently and for a proper purpose. There is room for fraud or error in every organization, both within and outside of Somalia. But our review has shown that the disbursements made from the Central Bank are in accordance with legitimate accounting procedures and have the requisite supporting documentation.

individuals to loot the government's treasury for personal gain is simply wrong. In short, the Central Bank is decidedly not a "slush fund" for corruption, and the Monitoring Group has presented no credible evidence to suggest otherwise.

E. The Entirety of the \$16,924,466 Processed Through PwC-Africa is Accounted For and Was Withdrawn from the Central Bank of Somalia in Accordance with Applicable Somali Law.

i) Identification of PwC-Africa Transfers

Paragraph 22 of the Monitoring Group Report states that PwC-Africa transferred \$16,924,466 to the Central Bank of Somalia ("CBS") between May 2011 and April 2012. The Monitoring Group claims that "[b]y tracking the date and the amount of the PwC transfers, and checking receipts and slips provided by the CBS to PwC against CBS records, the Monitoring Group identified six deposits amounting to 4,852,235 USD. It [sic] was unable to trace 12,072,231 USD as having been deposited in the CBS."

In response to our investigation, the Central Bank has identified 17 transfers⁷³ from PwC-Africa during the relevant time period that total \$17,145,351.20, as set out in the table below. The cost of these transfers was \$220,884.80, and thus the Central Bank received a net sum of \$16,924,466.40. The investigative team has verified the transfers made by PwC-Africa with reference to actual bank statements provided by PwC-Africa.⁷⁴

⁷³ These transfers correspond to 19 receipts in the Central Bank's records. Out of the sum of \$1,500,000 transferred by PwC-Africa on 4 May 2012, the Central Bank received \$1,485,000, which was accounted for as two receipts of \$1,075,000 and \$410,000 on 7 and 8 May 2011, respectively. Similarly, out of the \$2,500,000 transferred by PwC-Africa on 11 May 2011, the Central Bank received \$2,475,000, which was accounted for as two receipts of \$2,025,000 and \$475,000 on 16 and 17 May 2011, respectively.

⁷⁴ Attached as Exhibit 17.

Compilation of Subject PwC Transfers

Date	Amount Disbursed by PwC (USD)	Amount Received by CBS (USD)	Transfer Cost (USD)
04/05/2011	1,500,000.0	1,485,000.0	15,000.0
11/05/2011	2,500,000.0	2,475,000.0	25,000.0
31/05/2011	2,000,000.0	1,980,000.0	20,000.0
10/06/2011	2,000,000.0	1,980,000.0	20,000.0
19/07/2011	1,400,000.0	1,386,000.0	14,000.0
11/08/2011	959,971.2	941,148.0	18,823.2
02/08/2011	919,200.0	910,008.0	9,192.0
05/12/2011	97,980.0	96,059.0	1,921.0
20/12/2011	2,000,000.0	1,970,000.0	30,000.0
29/12/2011	1,000,000.0	985,222.0	14,778.0
24/01/2012	1,000,000.0	982,500.0	17,500.0
30/01/2012	250,000.0	245,098.0	4,902.0
14/02/2012	500,000.0	490,196.1	9,803.9
01/03/2012	307,200.0	301,176.5	6,023.5
19/03/2012	250,000.0	245,098.0	4,902.0
27/03/2012	300,000.0	294,117.6	5,882.4
14/04/2012	161,000.0	157,843.1	3,156.9
totals	17,145,351.2	16,924,466.4	220,884.8

The net amount received by the Central Bank from these 17 transfers and 19 receipts (collectively referred to as “the CBS transfer list”) agrees with the total of 20 transfers set out in paragraph 22 of Annex 5.3 of the Monitoring Group Report.

Because PwC-Africa provided very limited cooperation and the Monitoring Group refused altogether to cooperate with or assist the investigative team, the team could access neither the accounting records maintained by PwC-Africa nor the analyses purportedly performed by the Monitoring Group. It is, therefore, not possible for the investigative team to compare the list of transfers per the Monitoring Group Report and the Central Bank transfer list. However, the investigative team’s analysis indicates that what is meant by “twenty transfers” in

the Monitoring Group Report is actually twenty receipts, with the Monitoring Group considering the receipt of \$1,980,000 on 1 June 2011 as two separate receipts. The investigative team's analysis has reconciled the figures contained in paragraph 23 of the UN Monitoring Group Report as set out in the table below:

Date of receipt	Deposits identified by Monitoring Group Report (USD)	Deposits that the Monitoring Group is unable to trace (USD)	Total (USD)
07/05/2011	1,075,000.00		1,075,000.00
08/05/2011	410,000.00		410,000.00
16/05/2011		2,025,000.00	2,025,000.00
17/05/2011		450,000.00	450,000.00
01/06/2011		980,000.00	980,000.00
01/06/2011	1,000,000.00		1,000,000.00
16/06/2011		1,980,000.00	1,980,000.00
26/07/2011		1,386,000.00	1,386,000.00
14/08/2011		941,148.00	941,148.00
10/08/2011		910,008.00	910,008.00
07/12/2011	96,059.00		96,059.00
21/12/2011	1,970,000.00		1,970,000.00
29/12/2011		985,222.00	985,222.00
25/01/2012		982,500.00	982,500.00
31/01/2012		245,098.00	245,098.00
15/02/2012		490,196.10	490,196.10
03/03/2012	301,176.50		301,176.47
20/03/2012		245,098.00	245,098.04
28/03/2012		294,117.60	294,117.62
15/04/2012		157,843.10	157,843.14
totals	4,852,235.50	12,072,230.90	16,924,466.37

ii) **Tracing of the Central Bank Transfer List to the Accounting Records Maintained by the Accountant General and the Central Bank**

Based upon information received from the Ministry of Finance, the Accountant General prepares a F-35 Form that sets out the source of the monies received. The investigative

team learned that until the end of 2012, there was often a delay in the preparation of the F-35 Forms and, in such an event, the Central Bank would record the receipt in a Holding Account.⁷⁵ The investigative team was further informed that each individual sum received was often broken up into smaller amounts. This resulted in several F-35 Forms being prepared for each receipt.⁷⁶ Once the F-35 Form is prepared, the Accountant General sends the form to the Central Bank cashier who then transfers funds from the Holding Account into the Single Treasury Account. The Central Bank then stamps the F-35 Form and sends it back to the Accountant General, who prepares a F-10 Form (a general receipt) and, based on this form, posts the receipt into his cash book.⁷⁷ Similarly, the Central Bank records the receipts in the Single Treasury Account, a manual log of which is also referred to as a cash book.⁷⁸

The investigative team's analysis of the PwC-Africa receipts is set out in Annex C. In summary:

- Transactions amounting to \$3,271,176.50 were recorded directly into the Single Treasury Account. F-35 Forms⁷⁹ were prepared for these transfers on the same day, which were duly posted in the cashbooks maintained by the Accountant General and the Central Bank;
- Transactions amounting to \$12,711,133 were recorded in the Central Bank's Holding Accounts. We have verified F-35 Forms that correspond to the subsequent transfer of the monies out from the Holding Accounts and to the Central Bank's cashbook. We have also traced the posting of these deposits to the cash books maintained by the Accountant General;

⁷⁵ Interview of Ahmed Yusuf Mumin ("Siraaji"), Accountant General, Mogadishu, 11 and 12 August 2013.

⁷⁶ *Id.*

⁷⁷ Attached as Exhibit 16.

⁷⁸ Attached as Exhibit 18.

⁷⁹ Attached as Exhibit 19.

- Transactions amounting to \$784,313 were recorded in the Central Bank’s Holding Accounts. We have verified that these transactions were subsequently transferred from the Holding Accounts to a special “788” Special Reconciliation account that was directly controlled by the TFG Prime Minister in office at the time; and
- One transaction for \$157,843.10 was recorded directly to the “788” account. We have been able to trace the balances in the 788 account to the monthly Trial Balances and Balance Sheets.

iii) **Contrary to Monitoring Group Coordinator Chopra’s Claims, the Holding Account Formed Part of the Accounting Records of the Central Bank.**

In the first paragraph on page 6 of Coordinator Chopra’s response to the PRAC, he asserts that “[m]ultiple past and current officials of the Central Bank of Somalia and the Ministry of Finance, with direct knowledge of the PwC-Africa transfers during the period in question, have stated to the Monitoring Group that there is no such official holding account distinct from the official account of the Central Bank, the records of which are on file with the Monitoring Group.”

Because Coordinator Chopra refused to cooperate with the Federal Government’s investigation, it is impossible to know the specific identities of the persons that he claims to have spoken with, nor does the investigative team have access to the documents that are “on file with the Monitoring Group,” the authenticity and completeness of which cannot be formally tested. However, the Accountant General,⁸⁰ the Governor of the Central Bank,⁸¹ and the Central Bank’s Director of Operations⁸² each stated that it was a common practice for the Central Bank to record receipts from PwC-Africa in Holding Accounts until the preparation of the requisite F-35 Form

⁸⁰ Interview of Ahmed Yusuf Mumin (“Siraaji”), Mogadishu, 11 and 12 August 2013.

⁸¹ Interview of Abdusalam Omer, Governor of the Central Bank of Somalia, Nairobi, 8 August 2013.

⁸² Interview of Hassan Sheikh Elmi, Director of Operations, Central Bank of Somalia, Mogadishu, 12 August 2013.

by the Accountant General. The investigative team also has traced the monthly balances of the Holding Accounts, the Single Treasury Account and the Special 788 Account into the monthly balance sheets prepared by the Central Bank, which indicate that all of these accounts did indeed form part of the accounting records of the Central Bank. It also should be noted that the Accountant General independently recorded the transfers out of the Holding Accounts in his cashbook.

This difference between the information obtained by the investigative team -- based on complete interviews with all of the senior finance officials of the Federal Government and a thorough collection of accounting records directly from the Central Bank and the Accountant General -- and the incomplete information obtained by the Monitoring Group, underscores the importance of following professional investigative standards in pursuing an understanding of financial transactions. How the Monitoring Group possibly expected to understand these transactions through the Central Bank without ever speaking to the Governor of the Central Bank or the Accountant General, and without requesting any accounting records from the Central Bank or the Ministry of Finance, is beyond comprehension.

iv) **Other Erroneous Comments Made in Coordinator Chopra's Response to the PRAC**

Coordinator Chopra's response to the PRAC further states as follows:

None of the documentation provided in Annex A of the PRAC refers to PWC or to funds transferred from PWC-Africa.

None of the documentation provided in Annex A of the PRAC refers to a Holding Account as distinct from any other account, nor is there any documentation for transfers between a "Holding Account" and a "Single Treasury Account."

Annex A includes a table of "Fund Transfers Through Holding Account." The PRAC indicates that the Holding Account was a transitional account

pending deposit in a Single Treasury Account. However, some PwC-Africa transfers, listed as deposited in a Holding Account, actually appear directly in the official accounts of the Central Bank. For instance, on 06/05/11 PwC-Africa transferred 1,075,000 USD and on 08/05/11 it transferred 410,000 USD of Arab League funds to the Central Bank. These transfers appear directly in the official accounts of the Central Bank as deposits. However, the Annex A “Holding Account” table indicates that these amounts were deposited in a “Holding Account”. The corresponding Paying and Remittance Slips in Annex A do not refer to deposits in a “Holding Account.”

Coordinator Chopra’s continued denial of the existence of the Holding Account reflects a profound misunderstanding of the Central Bank’s recordkeeping and standard practices. The F-35 Forms corresponding to the transfers from PwC-Africa mostly indicate on their face that the funds being transferred to the Single Treasury Account are from donor funds, which is an obvious reference to PwC-Africa. Any doubt about this, however, could easily be dispelled by reviewing the PwC-Africa deposit records. Significantly, the narrative in the F-35 Forms for the receipts that are directly recorded in the Single Treasury Account (rather than being routed via the Holding Account) also do not contain a specific reference to PwC-Africa or funds transferred from PwC-Africa, but the Monitoring Group did not seem to have any problem identifying those as being related to PwC-Africa.

As stated above, the investigative team’s forensic tracing of the monies deposited to the Holding Account showed the monies being transferred into and, upon the preparation of the F-35 Form, out of the Holding Account. In the case of the receipt⁸³ of the US\$1,075,000 and the US\$410,000 on 7⁸⁴ and 8 May 2011 referred to in Coordinator Chopra’s response to the PRAC,

⁸³ It should be noted that contrary to what is stated in Coordinator Chopra’s response to the PRAC, the bank statements received from PwC-Africa indicate that there was just one transfer of US\$1,500,000, which was recorded as two receipts by the Central Bank (less the US\$15,000 transfer fee to the remittance company).

⁸⁴ This sum appears to have been received by the Central Bank on 7 May 2011 but was incorrectly listed in Annex A to the PRAC as being received on 6 May 2011.

the investigative team has confirmed that the monies were transferred to the Holding Account and then subsequently transferred out of the Holding Account to the Single Treasury Account, albeit on the same day with respect to one of the deposits. It should be noted that the investigative team's analysis indicates that these two receipts, together with another receipt of \$96,059 on 7 December 2011, which were routed through the Holding Account on the same day, are included in the deposits that the Monitoring Group Report accepts were recorded in the Central Bank's records.

v) **PwC-Africa's Remittance of US\$2.5 million on 6 May 2011**

Paragraph 24 of the Monitoring Group Report makes particular reference to a sum of US\$2.5 million received from the Government of Algeria via the Arab League. The Report states as follows:

One of the largest transfers missing was for 2.5 million USD from the Government of Algeria sent through the Arab League (see annex 5.2.c). On 6 May 2011, this transfer was prepared by PwC and it was authorised by Abdusalam Omer (see annex 5.2.d). On 11 May 2011, PwC sent an email notification to Al Amal Commercial Brokerage regarding the pending transaction. On 16 May 2011, CBS Governor Hagi and Ministry of Finance Director General Osman confirmed receipt in writing of 2,025,000 USD at the CBS (see annex 5.2.e) and a CBS deposit slip was forwarded to PwC for their records (see annex 5.2.f). However, in the accounts of the CBS there is no record of a deposit for this amount on this date, or any other date that month. The Monitoring Group considered whether the deposit might have been made in smaller increments over time, but has been informed that this would have been impossible and the CBS would be obliged to generate individual deposit slips for each transaction.

Similarly, Coordinator Chopra's response to the PRAC further states:

On 16/05/11, PwC remitted 2,025,000 USD of Arab League funds to the Central Bank. The Central Bank generated a deposit slip for this amount (see annex 5.2.f of S/2013/413). According to Annex A "Holding Account" table, this amount was deposited on the same day in the

“Holding Account”. However, there is no subsequent corresponding deposit in the official accounts of the Central Bank.

Coordinator Chopra is again incorrect. The investigative team’s analysis definitively reveals that per the bank statements received from PwC-Africa, a sum of US\$2,500,000 was remitted to the Central Bank on 11 May 2011. The Central Bank received a sum of US\$2,475,000 against this remittance in two tranches of US\$2,025,000 on 16 May 2011 and US\$450,000 on 17 May 2011, **which were both recorded in the Holding Account.**⁸⁵ The investigative team’s analysis further shows that the sum of US\$2,475,000 was transferred out of the Holding Account in accordance with the table below:

<u>Date</u>	<u>Amount (US\$)</u>
16/05/2011	1,000,000.0
21/05/2011	300,000.0
24/05/2011	700,000.0
26/05/2011	475,000.0
Total	2,475,000

vi) **Overall Conclusion**

Based upon our analysis of the books and records together with the underlying records maintained by the Central Bank and the Accountant General set out above, the transfers amounting to US\$16.9 million referred to in paragraphs 20 to 25 of Annex 5.2 of the Monitoring Group Report were, in fact, recorded as receipts in the accounting records maintained by the Accountant General and Central Bank and that any suggestion to the contrary is demonstrably incorrect.

⁸⁵ The Monitoring Group contends that its “sources with direct knowledge of PWC transfers” state that it would be impossible for the funds to have been deposited in smaller increments, as the Central Bank would have been obligated to generate individual deposit slips. Clearly, the Monitoring Group’s secret sources are either misinformed or prone to fabrication, as there is indisputable evidence that the Algeria funds were deposited in smaller increments during May 2011.

The PwC-Africa financing mechanism was put in place to assist Somalia in the management of its donor funds. The Monitoring Group’s allegation concerning missing donor funds is irresponsible and reflects the absence of a credible investigative effort. In fact, our investigation revealed that the Monitoring Group never actually interviewed any of the accounting professionals at PwC-Africa; instead, they spent one week at PwC-Africa’s offices during which they merely reviewed and secretly made copies of certain PwC-Africa records.⁸⁶ Thus, the reference and supposed support for the Monitoring Group’s allegations concerning the role of PwC-Africa as “Interview with PWC, Nairobi, 20 March 2013” is misleading and highly disconcerting. Nonetheless, all of the funds transferred by PwC-Africa are accounted for, and the documentation concerning the deposits is fully compliant with Ministry of Finance and Central Bank internal controls and procedures.

F. Governor Omer Has Never Issued a Banking License to Salaam Africa Bank.

The Monitoring Group Report alleges that Salaam Africa Bank⁸⁷ has established investment branches in Mogadishu, and that Central Bank Governor Omer provided the license under which Salaam Africa Bank operates.⁸⁸ The allegation is without any basis in fact. The

⁸⁶ Unclear is whether the Monitoring Group had permission to copy, remove, and publish to the general public the documents that they were authorized to review in PwC-Africa’s offices. The Monitoring Group also suggests that Dr. Omer somehow unilaterally narrowed the scope of the PwC-Africa mandate, from one of general fiduciary to mere payment agent, but it cannot point to any signed, written amendment to the PwC-Africa engagement agreement that actually allowed for such a claimed reduction in PwC-Africa’s scope. Nor does the Monitoring Group explain how it is Dr. Omer could possibly have had the power unilaterally to alter the agreement. Indeed, the agreement states that actions under the agreement may only be taken by the authorized representatives specified therein, and nowhere is Dr. Omer listed as an authorized representative. Thus, any statements by Dr. Omer to narrow the scope of PwC-Africa’s work (which we cannot find evidence of in any event) would have had no legal force. Notably, while the Monitoring Group seeks to blame Dr. Omer and the Central Bank for misappropriating \$12 million (all of which is easily traceable with the aid of the Central Bank accounting records), they do not question the company with fiduciary responsibility for those very funds: PwC-Africa.

⁸⁷ The Monitoring Group Report, at 166, improperly identifies the bank as “Salaam Africa Bank.”

⁸⁸ Monitoring Group Report, at 165.

apparent sole, overzealous purpose of the assertion is to attempt to associate Governor Omer with Ali Ahmed Nur Jim'ale, who was previously designated by the Security Council for targeted measures. Our investigation reveals—facts that the Monitoring Group could have ascertained through a simple internet search—that Salaam Africa Bank is based in Djibouti and does not have licensed banking operations in Mogadishu. Central Bank Governor Omer has never issued a license to Salaam Africa Bank.⁸⁹

There exists a “Salaam Somali Bank,” which was licensed prior to Governor Omer’s appointment to the Central Bank and operates in Mogadishu. However, when Salaam Somali Bank sought renewal of its banking license, Governor Omer expressly *denied* its renewal due to lack of proper reporting.⁹⁰ During his brief tenure, Governor Omer has not issued any full and formal banking licenses. Two provisional licenses, issued to African Trust Bank and Amal Bank, are subject to review and approval by the soon-to-be-installed Board of Directors of the Central Bank.

The Monitoring Group Report, for its misstatements about “Salaam Africa Bank,” relies on an unknown “analyst”, an unknown “banker”, and an unidentified “Former member of the Board of the Central Bank[.]” It is clear that the Monitoring Group’s sources are thoroughly uninformed. A basic internet search and review of actual Central Bank licensing documents would have enabled the Monitoring Group to report correctly.

⁸⁹ Interview with Abdusalam Omer, Nairobi, August 8, 2013, confirmed by document search at the Central Bank of Somalia offices in Mogadishu, Somalia.

⁹⁰ Interview with Governor Abdusalam Omer, Nairobi, 8 August 2013; confirmed by document search at the Central Bank of Somalia offices in Mogadishu, Somalia.

G. The African Development Bank and HESPI Provided Significant Capacity-Building Guidance and Training in Support of PFM Reform Efforts.

The Monitoring Group makes the remarkable accusation that “individuals” involved with the African Development Bank (“AFDB”) project “abused development concepts of local ownership and capacity-building in order to access resources,” and used the project as a “vehicle for corruption.”⁹¹ The Monitoring Group further claims that 81% of the US\$2 million appropriated by the AFDB for PFM capacity-building efforts was misused on “advisor consulting fees, administration costs and management fees,” and there has been “no verification of the training and capacity-building component of the project.”⁹² Our investigation reveals that these accusations reflect no understanding that capacity-building guidance is a human training function, and there is no supporting evidence for the Monitoring Group’s assertions.

The principal “individual” whom the Monitoring Group fingers as part of the allegedly tainted AFDB project is, yet again, Governor Omer. Governor Omer worked as a coordinator for the AFDB program as an advisor to the Ministry of Finance under the previous Transitional Federal Government. As Governor of the Central Bank under the current Administration, Governor Omer has advocated similar initiatives that empower Somalis by involving them directly in the rebuilding of their country. The Monitoring Group does nothing more than label these initiatives as “corrupt” but without evidence of “corrupt” acts or effects, thereby further attempting to sully the reputation of Governor Omer. At most, there is a legitimate political debate between those who favor greater Somali control of funding programs and others who support more outside influence. For unspecified reasons, the Monitoring Group appears bent on

⁹¹ Monitoring Group Report, at 164.

⁹² Monitoring Group Report, at 163.

furthering its political perspective on that debate by sidelining Governor Omer and any others who may share his political viewpoints.

Addressing the merits of the Monitoring Group’s accusations regarding the AFDB project, it is disingenuous to suggest that the project was wasteful because “81 percent of the funds were spent on advisor consulting fees, administration costs and management fees.” The AFDB facility was intended from the beginning to fund an advisory training program to build capacity within the financial integrity institutions of the Somali government. The entire purpose was to hire advisors to train Somali PFM professionals in such critical areas as “improving budgeting, accounting, financial reporting, procurement, and international and external audit.”⁹³ Therefore, it should come as no surprise that the bulk of funds spent on the AFDB project went to PFM trainers and advisors. Indeed, had the funds been spent on something other than trainers and advisors, the Monitoring Group then would have had a credible basis to criticize the spending as being contrary to the budgeted purpose agreed by all stakeholders. But here, the spending program did, in fact, adhere closely to the budget forecast, so the Monitoring Group’s critique is misplaced.

As for the Monitoring Group’s conclusion that there has been “no verification of the training and capacity-building component of the project,” this is a gross distortion of the facts. Kisaka & Company, Certified Public Accountants, Uganda (“Kisaka”) recently completed an audit of the AFDB facility for the period 1 July 2011 through 31 March 2013.⁹⁴ Kisaka’s

⁹³ African Development Bank Support Program of Rebuilding PFM in Somalia, Implementation Strategy and Inception Report, at 3, attached hereto as Exhibit 20.

⁹⁴ Kisaka’s report reconfirmed that the “overall objective of the [AFDB] Project was to provide financial and technical assistance on public financial management for all levels of the government of the Republic of Somalia in order to establish sound transparent public financial management systems; conduct personnel training; prepare financial management legislation and procedures; equip staff with the right skills mix; and develop appropriate legal

mandate in auditing the Program specifically included to “ensure that the funds granted to the Project have been used for their intended purposes.” Kisaka also focused on determining whether AFDB funds were used “with due attention to economy and efficiency and only for the purposes for which the funds were provided.” These are the very things that the Monitoring Group claims were not done when it asserts that the AFDB program was wasteful and that there has been “no verification of the training and capacity-building component of the project.”

Key to Kisaka’s audit process was to scrutinize the Fund Accountability Statement prepared by the Ministry of Finance, which detailed expenditures of US\$1,786,012 in AFDB funds for such tasks as “planning and budgeting reform,” “Public Financial Management and Treasury capacity building,” “Central Bank and financial institutions support,” “Capacity building and training,” and “Project Management System.” After conducting and completing its audit in accordance with the International Standards on Auditing promulgated by the International Federation of Accountants, Kisaka provided an unqualified opinion that the Fund Accountability Statement gives a “true and fair view of the finance position of Rebuilding Financial Management Systems Project as at 31 March 2013 and of the Project performance for the period ended in accordance with the accounting policies set out under note 5.2 and comply with the Grant Agreement between the African Development Bank and the Federal Government of the Republic of Somalia.”⁹⁵ Further, Kisaka confirmed the following “key achievements” of the AFDB program for which the AFDB funds were spent⁹⁶:

framework for fiscal and monetary institutions.” Kisaka & Company, Audit Report and Fund Accountability Statement, at 5, attached hereto as Exhibit 21.

⁹⁵ *Id.*, at 11.

⁹⁶ Audit Report and Fund Accountability For the Period 1st July 2011 to 31st March 2013, Kisaka & Company, attached hereto as Exhibit 21.

- Establishment of Treasury unit of the Ministry of Finance. “Six staff members were trained in public expenditure management and were provided extensive hands-on-secondment at the Accountant General’s department of Uganda.”
- Organization and Implementation of training workshop of Accounting Principles and Computing. A total of 32 participants attended the training workshop representing all key line ministries and public agencies of the Somali government. The workshop “was part of a series of staff training programs, including on-the-job and hands-on secondments in support of building institutional capacity for proper financial governance in Somalia and for the formulation and execution of appropriate macroeconomic policies.”
- Organization and implementation of a 14-day seminar for all Director General level officials of the Somali government. This program “served as reinforcement of the on-going institutional capacity building for policy formulation and execution aimed at enhancing sound use of public resources,” and “the participants were exposed to a self-assessment module in leadership and PFM management.”
- Drafting and approval by Parliament of the national Somalia budget for 2011.
- Operationalizing systems for budget planning and management.
- Training of senior government officials in public financial management.
- Operationalizing treasury functions.
- Drafting and approval by Cabinet of Public Finance Bill.
- Drafting and enactment by Parliament of the Central Bank Act of 2011 and the Public Financial Institutions Act of 2011.

Even prior to the Kisaka audit, Ernst & Young, LLP Africa (“Ernst & Young”)⁹⁷ and an official of the AFDB reached similar conclusions about the efficacy of the AFDB financing facility. The Monitoring Group Report correctly acknowledges that the Ernst & Young audit concluded there were “no irregularities with the bookkeeping of HESPI,”⁹⁸ yet the Monitoring

⁹⁷ Ernst & Young opined that “proper books of account have been kept and the accompanying Statement of Expenditure, which is in agreement therewith, give a true and fair view of the state of financial affairs of the project for the period 1 April 10 to 30 June 2011 and complies with the Terms of Agreement.”

⁹⁸ Monitoring Group Report, at 163.

Group Report inexplicably persists in demonizing the AFDB program as a corrupt contrivance of Dr. Omer. The Monitoring Group further attempts to manufacture a conflict of interest, accusing Dr. Omer of “approving the audit,” in an apparent effort to discredit the Ernst & Young audit and its positive audit conclusion. However, Ernst & Young was chosen through a Request for Proposal process; therefore there could not have been a conflict of interest for by Dr. Omer relating to the audit process.⁹⁹ Dr. Omer simply provided Ernst & Young with signed financial statements, which Ernst & Young then audited in accordance with International Standards of Auditing.¹⁰⁰ The Monitoring Group does not explain how Dr. Omer’s submission of the financial statements to be audited and his later receipt of the audit results from Ernst & Young serves as an “approval,” much less how Dr. Omer’s role in any way presents a conflict of interest. A reputable, international auditing firm was chosen to conduct an independent audit, and its independent conclusions were simply submitted to Dr. Omer. The Monitoring Group Report cannot explain what constituted the conflict or how the audit should have been conducted differently to avoid any such alleged conflict.

Similarly, in an Aide Memoire, the AFDB concluded that as a “result of the project, institutional capacity is being gradually rebuilt and over the past year functional budget and treasury departments have been established and a legal framework for financial institution has been put in place.”¹⁰¹ The Monitoring Group Report fails to acknowledge AFDB’s own assessment of the project it was funding. As a responsible international financial institution, the

⁹⁹ Interview with Abdusalam Omer, Nairobi, 8 August 2013.

¹⁰⁰ Ernst & Young Auditor’s Report and Statement of Expenditure, at 6, attached hereto as Exhibit 22.

¹⁰¹ African Development Bank, Aide Memoire, 21 November 2011, attached hereto as Exhibit 23.

AFDB is more than capable of analyzing the use of its grant funds and, as was the case here, assuring that those funds were being used for their intended purposes.

It is ironic that the Monitoring Group criticizes the lack of PFM capacity in Somalia at the same time it ridicules the AFDB-sponsored efforts to train government officials in PFM “best practices,” even when the financial expenditures for the training programs have been reviewed and endorsed by two sets of independent auditors and the AFDB itself. The Monitoring Group nowhere explains how it is better positioned to assess these programs than Ernst & Young, Kisaka, and the AFDB itself, and the Monitoring Group nowhere offers evidence to support its continuing insinuations of fraud and corruption. At bottom, the Monitoring Group’s allegations do not withstand even the most cursory of scrutiny, and there is simply no way to reconcile the internal inconsistencies underlying its position.

H. PwC-Africa Has Accounted For the US\$2,300,000 from the 2012 Mini-Budget.

The Monitoring Group Report alleges that during the 4th Quarter of 2012, “there was a total of \$10.3 million USD spent by PwC-Africa” on the Federal Government of Somalia, and US\$2.3 million of that is unaccounted for.¹⁰² A simple review of the actual bank statements flatly rebuts this allegation. During the 4th quarter of 2012, PwC-Africa received a total of US\$10,320,395 for the benefit of Somalia. Of that amount, only US\$2,257,395 was actually disbursed and spent on behalf of Somalia. It is not clear how the Monitoring Group made the allegations of unaccounted for funds when the records plainly indicate otherwise.¹⁰³ As shown in

¹⁰² Monitoring Group Report, at 164.

¹⁰³ The excerpt from the Parliamentary Report referenced in the Monitoring Group Report is cited incorrectly. The Parliamentary Report does not state that “there was a total of \$10.3 million USD spent by PwC” on the Federal Government of Somalia, as the Monitoring Group claims so as to create the false impression that \$2.3 million of the larger amount spent is somehow missing. What the Parliamentary Report actually says is that of the \$10.3 million in

the following table prepared by PwC-Africa, there are in fact detailed records and analyses regarding the receipt and expenditure of funds during the 4th Quarter of 2012:

Summary of receipts for the period 1 October 2012 - 31 December 2012	
Item	Amount US \$
US Government	9,915,000
Africa Development Bank	399,975
UNSOA	5,420
	10,320,395
Summary of expenses for the period 1 October 2012 - 31 December 2012	
Item	US \$
Ministry of Information Salaries and Consultancy fees	55,799
Stipends for security forces	1,844,600
Digital satellite service fees (Radio Broadcasting)	2,000
TFG Ministry of Finance Advisors fees, allowance and office expenses	30,325
Broadband Internet Access fees	15,677
Mogadishu Facilities Rehabilitation project (DANIDA)	46,560
Mogadishu Media House Project	5,203
PwC Fees	177,237
Transaction and bank charges	79,992
	2,257,394

I. There is No Evidence that Governor Omer Has “Captured” the PFM “Environment” or Otherwise Exceeded the Scope of his Authority.

The Monitoring Group concludes that Dr. Omer has “captured” the PFM “environment” in an effort to “undermine the technical efforts of the donor community to establish the legitimate, transparent and effective management of the public resources.”¹⁰⁴ The Monitoring Group has no evidence on which it can rely to assert any wrongdoing on the part of Dr. Omer with regard to the PwC-Africa mechanism, the AFDB initiative, or the Special Financing Facility (“SFF”). The Monitoring Group should not imply, without any supporting evidence, that Dr. Omer abused development concepts, such as local ownership and capacity building in order to

revenue that came into PwC-Africa during the fourth quarter of 2012, the actual money spent was just \$2.3 million. The Parliamentary Committee then indicated that “there is no explanation on how this money [i.e., the \$2.3 million] was administered.” The Committee simply wanted the itemization that appears in the below text.

¹⁰⁴ Monitoring Group Report, at 166.

enrich himself.¹⁰⁵ The concepts of local ownership and capacity building have been a central thread of the PFM reform efforts and the rebuilding of the Central Bank since Dr. Omer's appointment as Central Bank Governor.

The PwC-Africa mechanism discussed in Section IX.E and the AFBD initiative discussed in Section IX. G are examples of the current administration taking concrete steps toward PFM reform, not examples of pervasive corruption. Audits of the PwC-Africa transactions and AFBD initiative confirm that those mechanisms served their purposes and were conducted with appropriate diligence and oversight. With regard to the SFF, the mechanism does not contradict, but instead enhances the substantial PFM reform in progress.

The Monitoring Group Report attempts to portray Governor Omer as a liar when, on 9 April 2013, he submitted a proposal to the SFF regarding the Central Bank's capabilities. The proposal concerning a new payroll system included the following:

Registrations

During registration, all details relating to an employee such as name, d.o.b., employer, payment date, salary amount, biometric data etc. are captured. The system will then create an employee account for salary deposit.

Salary processing

When salary is being processed, the system will debit the holding account and credit the individual employee accounts with the equivalent amount of his/her net pay. Each month, data on the

¹⁰⁵ The Monitoring Group Report contains other allegations concerning Dr. Omer and the misappropriation of funds for himself. The Monitoring Group insinuates that a payment of \$50,000 requested by the prior Minister of Finance was somehow inappropriate. Instead, as previously explained in the Central Bank's Preliminary Response, the \$50,000 payment was authorized by the Prime Minister and Minister of Finance. The suggestion that Dr. Omer retained all of these funds is inaccurate. As indicated in the Minister of Finance's 27 October 2009 letter, just \$10,000 of these funds were used to cover administrative expenses of Dr. Omer for his work as a Ministry adviser, and the remainder went to cover administrative costs of the Prime Minister's office, including a bereavement payment to the family of a deceased minister of the TFG government.

current pay period is entered into the system and verified. This data is used to update the employee master file with appropriate additions, changes, deletions and to generate required output.

Each month, data on the current pay period is entered into the system and verified. This data is used to update the employee master file with appropriate additions, changes, deletions and to generate required output.

Payments

An employee will come to the teller asking for his/her salary payment. He/ she is required to identify themselves through their fingerprint (which was captured during registration). His/her details will pop up. These include the net pay he/she is supposed to receive. The teller will proceed to ask the employee the amount he/she wants to withdraw from his account. The system will ask for a confirmation. The payee will confirm through their fingerprint.

Cash Control

The system has holding accounts (i.e. SFF Fund accounts) and employee accounts. When an employee is paid his/her salary, the system will debit the holding account and credit the employee account.

Reports

The system has wide range of reporting options for our clients. It creates an electronic audit trail in the database. Following reports will be made available:

- Daily Balance sheet
- Daily, weekly and monthly expenditure reports (as requested)
- Comprehensive quarterly report.

Technical Specifications

The Central Bank [] commenced in the beginning of April, the installation of a new biometric component in our payroll system

under which customers' biometric data would be stored in the central database of the Bank, and in turn only public servants whose biometric data have been taken will be paid salaries. All data including the biometric data is stored on a single database which eliminates redundancy and multiple update routines. This single database concept also provides for ease of maintenance and ensures data integrity. Security of the Bank's servers is controlled by the Central Bank and is sufficiently flexible to support all business processes.

* This component is scheduled to be operational in mid-April [2013].¹⁰⁶

Somehow, the Monitoring Group's review of the proposal led it to conclude that the Central Bank was touting capabilities it could not have, in an effort to deceive Norway into funding the SFF. The facts simply do not support such a hypothesis. The opposite is in fact true, as on 25 March 2013, the Central Bank completed the purchase and implementation of a biometric payroll system as described in the proposal, well before the anticipated mid-April target.¹⁰⁷ In fact, on 29 August 2013, 380 civil servants were paid using the aforementioned biometric payroll system.¹⁰⁸ Additionally, many of the components of the payroll system are reflective of the PFM system currently in place, including holding accounts, cashbooks, and daily balance sheets. The system under the SFF sought to automate those components. Critically, the Monitoring Group failed to review either the manual or automated procedures set forth by the Central Bank.

To suggest that Dr. Omer has seized control over two major financial institutions and the efforts of the Government of Norway is beyond the pale. As the Governor of the Central Bank,

¹⁰⁶ Guide to the electronic payroll system of the Central Bank of Somalia. Proposal to the Special Financing Facility (SFF), 9 April 2013, attached hereto as Exhibit 24.

¹⁰⁷ The Somali National Broadcaster (Radio Muqdisho) visited the Bank when the staff had completed the roll-out of the payroll system. The news coverage may be found at: <http://radiomuqdisho.net/bankiga-dhexe-ee-soomaaliya-oo-la-hormariyey-islamarkaana-howlgaliyey-barro-internet-oo-ay-bulshadu-kala-xiriiri-karaan-sawirro/>.

¹⁰⁸ Central Bank Email, 29 August 2013.

Dr. Omer has a mandate to reform the PFM system, not steal from programs involved in the reform efforts. Our investigation revealed that Dr. Omer has not captured the PFM “environment” in some devious scheme; instead, he is working with the President and Ministry of Finance to further Somalia’s goal of achieving PFM reform.

X. Recommendations

As noted above, this investigation was of limited scope. Nevertheless, a review of records related to the Monitoring Group’s allegations exposed the investigative team to, among other things, the books and records of the Federal Government’s public financial management system, personnel responsible for administering Federal Government funds, the interaction between and among Ministries of the Federal Government, and the conduct of staff of the Monitoring Group in preparing its Report, the narrative content of the Report and failure to cooperate in this investigation. The recommendations below are based on the information reviewed and interviews conducted during the course of the investigation.

A. Upgrading of Internal Controls and Financial Reporting Systems

The investigative team’s review of books and records of the Central Bank, the Ministry of Finance, the Ministry of Defense and the Accountant General presented an opportunity to examine generally the systems presently in place governing internal controls and financial reporting systems. The prolonged conflict and crisis in Somalia not only left behind by more than 20 years the evolution of the financial management system in the government and the supporting system of internal controls, but also resulted in a stagnation and degradation of the extant systems. The Federal Government understandably established financial and accounting

procedures pursuant to a legal regime adopted approximately 40 years ago, which has not yet been updated.

For the Federal Government to adopt an entirely new system of internal controls for government-wide financial operations, including the Central Bank, would be unproductive, absent appropriate infrastructure, technology and training. Moreover, a complete overhaul would not serve an efficient purpose, because the investigative team, which included legal and accounting experts in internal controls and anti-corruption policies and procedures, found an albeit antiquated but functional system of controls with supervisory systems, transaction approval requirements and review procedures.

Nevertheless, counsel recommends a series of graduated technical assistance grants, first, to set a concrete implementation schedule to establish and implement an enhanced and consistent series of internal controls across all Ministries and the Central Bank; second, to arrange for appropriate world governments with advanced public financial management systems to provide mutual assistance for the establishment of enhanced internal controls and procedures; third, to provide the technical training to operate effectively any new or enhanced system of internal controls and procedures; and, fourth, to implement and launch, including installation of infrastructure, hardware and software, a new or enhanced system of internal controls and procedures for public financial management and administration. Such a graduated series of grants and implementation schedule is consistent with the frequent refrain heard during witness interviews—the need and desire for additional training across the government and vertically within the line ministries.

B. Public Financial Management Areas for Further Consideration

The attorney and accountant investigators identified several areas warranting further consideration and follow-up for either of two reasons. One is that the exposure to the subject was so limited that the investigators did not form an opinion or a basis upon which to provide recommendations. The other is that there are areas outside of the technical expertise of this investigative team such that recommendations, absent input from appropriate experts, would be inappropriate. Accordingly, we identify four particular areas for further consideration, without offering any definitive opinion as to the efficacy of current systems or scope of need.

First, is to move towards transferring to the Federal Government responsibility for full administration of finances. This will enhance the image and trust in the Federal Government and ensure that funds intended for the benefit of various Somali Government functions inure entirely to the benefit of those purposes, without an administrator “taking off the top” administrative fees for the sole purpose of transferring and managing funds.

Second, is the promotion of technical assistance training, as senior government officials expressed their desire for expansion of capacity and expertise across the Government and vertically within Ministries and agencies.

Third, is to consider establishment of an independent central procurement entity to enable the Federal Government to avail itself of cost-savings and efficiencies attendant to bulk purchasing.

Fourth, is to adopt strict policies and procedures related to the bidding for and awarding of government contracts in all but extraordinary engagements. Open and competitive bidding

provides for greater transparency and can reduce the risk of compromising the integrity of the contracting process.

C. Action Regarding Monitoring Group

In fairness not only to the Federal Government but also to all institutions and parties who relied on and presumed to be well-grounded the Monitoring Group Report, the Federal Government should request that the Security Council take formal action against the staff of the Monitoring Group. Based on the findings of this investigation, Counsel recommends that the request include the following elements:

1. Revise the mandate of the Monitoring Group and remove expressly from the jurisdiction of the Monitoring Group the authority to report on those topics discussed in Annex 5.2 of the Monitoring Group Report;
2. Request that the Security Council issue a revised Monitoring Group Report that excises from the Report the entirety of Annex 5.2;
3. Request that the Security Council reconsider and revise paragraph 25, “Public financial management”, of United Nations Security Council Resolution 2111 (2013), and either excise or revise the phrase that currently reads “*express[ing the Security Council’s] serious concern* at reports of misappropriation of Somalia’s public resources” to reflect the evidence developed in this fact-based Response;
4. Reimburse the Federal Government the costs it incurred for this investigation as caused and necessitated entirely by the unsupported narrative produced by the Monitoring Group;
5. Reconstitute entirely the staff of the Monitoring Group to ensure the participation in future reviews by professionals capable of presenting objective findings based on a bona fide review of actual in-country and on-ground conditions;
6. Recommend the retention and inclusion of experienced forensic auditors, rather than persons unqualified to analyze financial records and systems, in the preparation of any monitoring group

report that purports to analyze and discuss public financial administration issues;

7. Issue a public admonishment directed at the Monitoring Group for its failure to adhere to and apply the fact-finding standards set forth in the General Assembly's Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security (adopted on 9 December 1991), for its leak and/or distribution prematurely of the Monitoring Group Report to select members of the media, and for its failure to establish a system for the issuance of its Report in a manner consistent with the UN Fact-Finding Standards;
8. Reaffirm the Security Council's commitment to the fact-finding standards set forth in the General Assembly's Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security (adopted on 9 December 1991);
9. Establish a system with strict controls and supervision for the public issuance of monitoring group reports, including to preserve confidentiality until such time as a subject State has had a reasonable opportunity to provide comments, consistent with UN Fact-Finding Standard 26; and
10. Afford to States that are the subject of monitoring group reports the opportunity to review and provide written comments for consideration by a monitoring group prior to the publication of a monitoring group report, consistent with UN Fact-Finding Standard 26, and to append to the monitoring group report all written comments to the monitoring group report provided by the subject government.

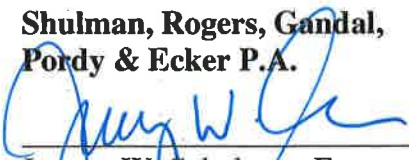
D. Instruct Counsel to Investigate and Report on Additional Issues Identified as Warranting Follow-up Based on the Broader Monitoring Group Report and Counsel's Investigation.

Counsel has identified for the Federal Government several areas for consideration for certain follow-up investigative procedures and analysis. Given the limited nature, time and scope of this investigation, Counsel recommends that the Federal Government pursue those issues about which it has not reported in this Report and to make recommendations directly to the President as to further action, if any.

Respectfully submitted on this 30th day of August, 2013.

SHULMAN | **GANDAL**
ROGERS | **PORDY**
| **ECKER**

**Shulman, Rogers, Gandal,
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Forensic accounting analysis provided by:



