

Peer Review of CAO Compliance Cases

Report Summary

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for the

World Resources Institute

Washington DC

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International Finance Corporation

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Abbreviations

CAO	Compliance Advisory Ombudsman
EIA	Environmental Impact Assessment
E&S	Environmental and Social
FI	Financial Intermediary
FY	Financial Year
IFC	International Finance Corporation
IFI	International Financial Institution
IIF	India Infrastructure Fund
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organization
MIGA	Multilateral Investment Guarantee Agency
OG	Operational Guideline

Summary

The CAO commissioned the World Resources Institute (with Lalanath de Silva as the designated reviewer) to perform an independent peer review of a selection of compliance cases processed over the past 6 years. The goals and expectations of this peer review were to provide the CAO with feedback on the quality of its compliance appraisal and investigation reports. The review provides feedback on the extent to which the reports responded to the requirements of the CAO's Operational Guidelines (OGs).

For this peer review round (FY16), appraisals and investigations were selected to ensure that the reviewer considered a range of reports reflecting the diversity of CAO's compliance work. Fourteen compliance cases and one programmatic audit (15 in all). The 15 cases were selected from the mining, oil, gas and chemical, infrastructure, agribusiness, service, financial, manufacturing, and advisory services sectors.

For each of the 15 cases selected, the compliance appraisal and where applicable, investigation, findings and monitoring were reviewed against four criteria: (a) CAO's independence, (b) adequacy of evidence in reports, (c) the extent to which the CAO's mandate has been fulfilled and (d) whether the decision to proceed to investigation following appraisal was justified.

The main findings from the review are as follows:

1. The reviewer found the investigation reports to be robust. The issues were well defined, the positions of the parties were even handedly set out, the evidence on each issue was clearly set out and analyzed and appropriate evidentiary standards were applied in arriving at the conclusions and findings.
2. The reviewer considered if the CAO was making the best decision at the appraisal stage (i.e, whether to proceed to investigation or to close the case) in accordance with the OGs. The reviewer found that nine cases in the cohort reviewed, proceeded to investigation and there was solid justification for doing so in each case. Of the six cases that were closed after appraisal, the reviewer felt that four cases may have had justification for proceeding to investigation under the OGs.
3. A more structured and focused approach to the presentation of evidence and conclusions around the appraisal criteria set out in OG 4.2.1 using a *prima facie* standard of evidence would improve the appraisal process.
4. The reviewer and the CAO compliance staff agree that monitoring remedial actions post-investigation presents a significant challenge for the CAO. The OGs don't offer a structured approach to the development of a remedial action plan, setting of remedial goals, and the monitoring of those goals.

In conclusion, the reviewer makes the following five key recommendations for improving the CAO's compliance reports:

1. CAO staff will benefit from internal guidance and training on evidentiary standards for appraisals, audit/investigations and monitoring. Guidance should not be legal or legalistic, but

should focus on the adequacy of evidence and how evidence is presented and analyzed in reports leading to firm conclusions that relate, in a structured way, to the criteria set out in OGs.

2. CAO staff would benefit from internal guidance on the presentation of findings and conclusions in the appraisal reports with regard to the three criteria (or questions) that need to be answered in order to proceed to an audit/investigation.
3. Guidance on readability of reports and website case narratives will be helpful to make them more accessible to the lay public.
4. The reviewer recommends that the procedures from the end of the investigation to the development of a remedial action plan and monitoring be revised to make the process more effective.

Finally, the reviewer recommends, that future reviews be more structured and conducted by a panel (3) of reviewers with diverse expertise.