IFC Draft Policy on Disclosure of Information:
CAO perspectives and residual concerns

1. Introduction

1. Following a Board committee discussion on the International Finance Corporation’s (IFC’s) Policy and Performance Standards on Social and Environmental Sustainability and Disclosure Policy¹, IFC publicly disclosed a draft Policy on Disclosure of Information on September 22, 2005 (hereafter referred to as the draft Disclosure Policy). A 60 day period for public comment was initiated at the time of public disclosure, which ends on November 25, 2005. This submission to IFC presents the Compliance Advisor/Ombudsman’s (CAO’s) perspectives on IFC’s current draft Disclosure Policy.

2. The CAO’s submission is based on our assessment of the extent to which IFC’s draft Disclosure Policy is supportive of equivalent, or preferably enhanced, transparency and accountability to affected communities, consistent with the CAO’s mandate as an independent recourse mechanism for environmental and social matters for IFC. CAO shares IFC’s stated belief that “transparency and accountability are fundamental to fulfilling IFC’s development mandate and strengthening public trust in IFC and its clients”. Accordingly, this submission is anchored to IFC’s commitments to “enhance transparency about its activities”, to “encourage its clients to be more transparent”, and to “provide accurate and timely information regarding its activities to its partners and stakeholders”².

3. CAO acknowledges that the draft Disclosure Policy contains a number of potentially positive commitments, such as the inclusion of a public interest over-ride clause (in paragraph 10) and the proposal to appoint a Disclosure Policy Advisor (paragraph 35), although both provisions raise a number of related concerns. This submission focuses on those areas in need of improvement prior to the draft Disclosure Policy being finalized.

2. Summary of the CAO’s concerns relating to the draft disclosure policy

i. Reporting on development outcomes: The draft Disclosure Policy commitments on development impact reporting are very weak, and fall short of what CAO recommended in its assessment of the extent to which IFC had

---
¹ Committee on Development Effectiveness (CODE) meeting on September 7, 2005
² IFC Policy on Disclosure of Information, Draft for Public Comment, September 22, 2005, para. 3
³ IFC Policy on Disclosure of Information, para. 3, para. 4 and para. 5 respectively.
addressed the recommendations of the CAO Safeguard Policy Review\(^4\). CAO considers that IFC should commit to reporting on development outcomes at the project level, relative to the anticipated development impacts and contributions originally outlined in the SPI (and subsequent updates);

ii. **Clearer links between consultation and disclosure:** The draft Disclosure Policy does not clearly require that sufficient project-level consultations on all material environmental or social issues and related documents ought to have been undertaken in advance of the 60 or 30 day interval for document disclosures, prior to the Board consideration of a proposed project. This includes the assessment of the adequacy of consultation (in terms of free prior and informed consultation (FPIC) or broad community support (BCS), where relevant. The pre-Board 60 or 30 day interval for wider public disclosure should not substitute for earlier robust consultations with affected communities;

iii. **Consultation on and disclosure of Action Plans:** The current draft Disclosure Policy makes no reference to the extent of consultation on or disclosure of the Action Plan to be prepared by IFC clients. While this is arguably best addressed within the Performance Standards, it is currently not dealt with in sufficient detail. Either within the Performance Standards or in the Disclosure Policy, CAO considers it essential that IFC signal that affected communities ought to be consulted on the Action Plan to ascertain their views on whether it adequately reflects their understanding of mutually agreed commitments. In addition, the revised Action Plan, incorporating any additional or supplemental corrective actions\(^5\), should also be consulted on. These steps should have occurred prior to IFC’s assessment of the adequacy of consultation;

iv. **Enhanced transparency and accountability in IFC’s environmental and social due diligence:** The need to “preserve the integrity of the deliberative process” stipulated in para. 9(b) of the draft Disclosure Policy should not undermine greater transparency and accountability on the part of IFC for its environmental and social deliberative processes, as called for in the CAO’s Safeguard Policy Review (SPR\(^6\)). In August 2005, CAO encouraged IFC to rigorously document and publicly disclose its rationale for key decisions (as part of its environmental and social due diligence) to enhance transparency and accountability\(^7\) – CAO would like to see this commitment reflected in the Disclosure Policy.

v. **Process and criteria for determining material changes in development impact and contribution and E&S information:** The draft Disclosure Policy provides for updating of the Summary of Project Information (SPI) after its initial disclosure in para. 12, as well as for updating of the Environmental and Social Review Summary (ESRS) after its initial disclosure in para. 13 without the need to restart the pre-Board 60 or 30 day disclosure intervals unless IFC determines that development impact or contribution may be materially affected. CAO would

---


\(^5\) As provided for during IFC’s appraisal process, as outlined in IFC’s draft Procedure for Environmental and Social Review of Projects.


\(^7\) CAO (2005). Safeguard Policy Review revisited: Has IFC addressed the recommendations of the Safeguard Policy review?
like to have greater clarity on the process and criteria IFC will apply to determine the materiality of new and emerging information, and whether this either: (a) necessitates re-starting the pre-Board disclosure intervals or; (b) requires additional consultation with affected communities before pre-board disclosures can commence;

vi. **Scope of the CAO disclosures**: The language in para. 26 relates too narrowly to the Ombudsman role. CAO will continue to make available details of its activities and related reports for each of its three roles (compliance, advisor and ombudsman), and not just those pertaining to assessment of complaints;

vii. **Clarifying role of IFC Disclosure Policy Advisor vis a vis CAO**: The creation of the position of Disclosure Policy Advisor could lead to confusion on the part of affected communities regarding the respective roles of the Disclosure Policy Advisor and CAO, and their ability to lodge a complaint. Accordingly, CAO would like to see language included clarifying that where communities are concerned that they have been adversely affected by the environmental or social impacts of a project, and that deficiencies in disclosure or consultation are of related concern, they can pursue a compliant to the CAO without firstly having to request information from IFC or await the deliberations of the Disclosure Policy Advisor;

viii. **Clearer timelines for response to information requests**: CAO considers it desirable to include indicative timelines for responding to information requests or for deliberations by the Disclosure Policy Advisor.