



## **CAO Approach to Responding to Concerns of Threats and Incidents of Reprisals in CAO Operations**

### **Introduction**

The Office of the Compliance Advisor Ombudsman (CAO) is the independent recourse and accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective and constructive, and to enhance the social and environmental outcomes of those projects.

CAO's mandate and role reflect the reality that many development projects carry social and environmental risks. In this context, an impacted person's ability to speak up about impacts of development projects freely and without fear, particularly if the person belongs to a community that is already vulnerable as a result of its status in society, is essential. People who come to CAO are often vulnerable and may fear that submitting a Complaint to CAO puts them at risk of reprisal for doing so. This Approach seeks to address these concerns and risks.

This Approach should be read together with CAO's Operational Guidelines, as well as World Bank Group policies and staff rules.

### **Applicability, Scope and Limitations**

This Approach is applicable to all CAO functions and sets out how CAO staff and consultants, within CAO's mandate, are expected to handle situations that may arise in the course of CAO's work, which involve threats and incidents of reprisals targeted at individuals that have engaged or are seeking to engage in a CAO process.

The types of threats of reprisals against complainants and others engaging or seeking to engage in a CAO process, which this approach aims to address, can range from fears for a person's job or standing at work, to future job prospects being adversely impacted, or loss of reputation in community or workplace, to threats of physical violence to people themselves or their family members, and even criminalization or incarceration as a result of speaking out against the impacts of a project. People's concerns for their and their families' safety and wellbeing can prevent affected people from filing complaints to seek redress for anticipated or experienced social and/or environmental impacts associated with IFC/MIGA projects.

#### ***Limitations of CAO's role***

CAO takes the safety of complainants and others that engage in a CAO process seriously, and seeks to exercise its mandate in a manner that maximizes its ability to respond appropriately to threats and instances of reprisal in the context of CAO's processes. CAO is available to discuss such concerns with people prior to lodging a complaint. At the same time, CAO endeavors to be clear about the limitations of its ability to respond to such instances of threat and reprisal: CAO is not an enforcement mechanism, and does not have any direct ability to physically protect complainants or otherwise safeguard people from possible consequences of engaging in a CAO process or cooperating with CAO. As set out below, CAO may have the ability to reach out to



others. In any given situation, however, other actors may or may not be able to respond to potential threats or incidents of reprisals. Given these real limitations to CAO's ability to respond to threats or incidents of reprisals, this approach is focused on assessment and prevention as the best means to counter threats.

## **Principles**

CAO acts in keeping with the following principles:

### ***Peaceful resolution of disputes***

CAO believes in the resolution of disputes through non-violent and peaceful means that promote the dignity of people and respect the rights of all. Violence or threats have no place in a CAO process.

### ***Confidentiality***

CAO's Operational Guidelines<sup>1</sup> set out its commitment to safeguard individual identities and confidential information shared by the parties. CAO will respect a party's request for confidentiality, and protect the parties' right to confidentiality for as long as they choose in a process and after it has been closed. This confidentiality protection can start as early as inquiries to the office before lodging a complaint, and carries through the eligibility, assessment, dispute resolution and/or compliance process, and any related advisory work.

### ***Concerned person participation and informed consent***

CAO's approach to responding to any threats or incidents of reprisals will be discussed and agreed with the concerned person or group (complainants and others that have engaged or are seeking to engage in a CAO process, as relevant) from the start and throughout the process. CAO engages with the concerned person or group throughout its involvement to discuss and reassess the risk of threats or incidents of reprisals, and to help devise an appropriate response. Before acting, CAO will always seek the informed consent of the concerned persons before taking any action in relation to threats or incidents of reprisals on their behalf. In this context, CAO will explain CAO's limitations of its mandate and capability in this field, as CAO strives to be realistic and transparent in its description of what it can and cannot do in such circumstances, as set out in this document.

### ***Intent to prevent harm***

Core to CAO's work is the intent/belief that people involved in a CAO process should not be harmed as a result of cooperating in a CAO process. CAO will discuss concerns with the concerned person or group, and may conclude a process as a preventative measure.

## **Approach**

CAO will proactively assess, discuss and address risks of threats and reprisals as set out in this document throughout its involvement in any complaint. Recognizing that every case context is unique and different, CAO takes a flexible approach, which can be adapted to different situations, but is always guided by core principles, as noted above: peaceful resolution of disputes, confidentiality, complainant participation and informed consent, and intent to prevent harm.

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<sup>1</sup> Operational Guidelines (CAO 2013): 1.4 Confidentiality and Information Disclosure, page 6



### ***Risk Assessment***

Right from the outset and throughout CAO's process, CAO will regularly assess the risk context of the complaint and incidents of reprisals, both by consulting independent sources, IFC/MIGA management, and through interactions with the parties.

CAO pays particular attention to risk factors such as, but not limited to, the environment for public participation, the risks people in the country or region take when they protest against a development project or promote social and environmental causes, whether complainants have previously faced reprisals or threats of reprisal, and the presence of formal or informal security forces, and seeks to identify whether there are specific groups or individuals that may be at higher risk based on their status in society. CAO also assesses the safety of its digital communications, and seeks to adopt best available technologies to safeguard the digital integrity of its processes.

### ***Preventive measures***

Where asked to do so, CAO will work closely with the concerned person or group to identify preventive measures adapted to the specific circumstance, especially where security concerns are present. Where risks of reprisal are present, CAO seeks to plan possible responses (see also section "response to security incidents") with the concerned person or group prior to any potential incident, in case the concerned person or group may be unreachable in such an event. Preventive measures can take a multitude of forms:

### ***Safeguarding confidentiality***

CAO will safeguard individual identities and confidential information throughout a party's engagement with CAO. CAO only shares complaints, or information contained in the complaint, with other parties with the prior consent of the complainant/s. Further, CAO will not take photographs of individuals involved in a complaint without their express consent. CAO will not use identifiable images of individuals with confidentiality protection, or indications of their locations, in documenting aspects of its work through photographs, without their express consent. Photographs of parties involved in a CAO case will only be used for publication purposes when appropriate permissions have been sought and the parties are aware how the images will be used. CAO may advise against the use of recording/filming devices during meetings to protect confidentiality. Also, CAO requires interpreters and drivers it uses to sign confidentiality agreements. Wherever feasible, CAO will use encrypted mediums for communication and seek out other technology best practices to help safeguard confidentiality online and in communications. Logistical arrangements will be agreed with the concerned parties with view to minimizing risks, such as by avoiding public meetings, or meeting people at off-site locations or where they feel it is safe.

### ***Generating a supportive environment and addressing power imbalances***

In dispute resolution processes particularly, CAO may work with the parties to implement measures that help create a safer environment for engagement and address power imbalances. Such measures include the engagement of professional mediators, and provision of training and ongoing capacity building for the parties engaged in dialogue. Parties may contribute to a safer environment for engagement through actions aimed at building trust, such as cessation of activities that are of concern to the other party. Joint public statements in support of a collaborative process can also send a positive signal to process outsiders. Sometimes, it may be appropriate to approach other actors, such as government agencies or World Bank Group



management, as appropriate, with the consent of the concerned person or group.

### ***Response to security incidents***

CAO acknowledges that instances of reprisal and their consequences for individuals and groups may be of an ongoing nature. Should security incidents or threats occur in the context of CAO engagement, or should the CAO become aware of such security threats, CAO will discuss with the concerned person or group what the appropriate course of action for this person or group of persons in relation to the CAO engagement might be. In this context, not having any direct ability to physically protect complainants or otherwise safeguard people from possible consequences, CAO endeavors to be clear about the limitations of its ability to respond to such instances of threat and reprisal.

### **Reporting**

CAO may reflect any significant security concerns or incidents in case related CAO reports (such as assessment reports, or compliance or dispute resolution-related reports) as appropriate, with the concerned person or group's consent, and where it is safe for the concerned person or group to do so. This way, CAO may provide a fuller picture of the context of the case, and the risks faced by affected people seeking recourse. In addition, in its annual report, CAO will report aggregate information on threats and reprisals, drawing on information received in the course of its work as the independent recourse and accountability mechanism for IFC and MIGA.

### **Review of Approach**

CAO will periodically review the effectiveness of this approach and make improvements as needed.