CAO COMPLIANCE ADVISOR OMBUDSMAN

IFC & MIGA Independent Accountability Mechanism (CAO) Policy

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CONTENTS

GLOSSARY

Capitalized terms used in this Policy have the following meanings:

Access to Information Policy (AIP): IFC's or MIGA's Access to Information Policy, or both, as applicable.

Active Project: A Project approved by the Board for which the IFC/MIGA Exit has not yet occurred.

Board(s): IFC or MIGA Board of Directors, as applicable (together, the Boards).

Business Days: Any day that is not a Saturday, Sunday, or other day on which the World Bank Group headquarters remain closed.

CAO: The Office of the Compliance Advisor Ombudsman.

CAO DG: The Director General of the CAO.

Client (IFC): The legal entity to which IFC provides investment or advisory services. For IFC Projects in relation to which IFC has entered into Project agreements, the term Client refers to the legal entity that receives investment or advisory services from IFC under the Project agreements. For IFC Projects in relation to which IFC has not entered into Project agreements, the term Client refers to the legal entity that is engaged in active discussions with Management with respect to such investment or advisory services.

Client (MIGA): The Project Enterprise, the Guarantee Holder, the borrower of any loan guaranteed by MIGA or any other entity responsible for the implementation of the Project (as such parties are set forth in MIGA's contract of guarantee or if MIGA has not yet entered into a contract of guarantee as approved by the MIGA Board or MIGA Management [under delegated authority]), as is appropriate in the context. MIGA has no contractual relationship with the Project Enterprise; thus MIGA seeks to enforce requirements, including E&S Requirements, against the Guarantee Holder as outlined in MIGA's contract of guarantee.

CODE: Committee on Development Effectiveness of the Boards.

Complainant(s): Individual(s) or group(s) of individuals identified as participating in a CAO process who believe that they have been or may be harmed by a Project.

Environmental and Social (E&S) Requirements: Project-level requirements as defined in the IFC/MIGA E&S Policies and Performance Standards as relevant, and other environmental and social obligations as may be agreed between IFC/MIGA and the Client.

E&S Policies: (1) The Policy on Environmental and Social Sustainability of IFC or MIGA as applicable; (2) the Project-specific provisions of the Access to Information Policy of IFC or MIGA as applicable; and (3) any other Board-approved environmental and social commitments for Projects.

FI: Financial intermediary.

Harm: Any material adverse environmental and social effect on people or the environment resulting directly or indirectly from a Project or Sub-Project. Harm may be actual or reasonably likely to occur in the future.

IAM: An independent accountability mechanism. For the purpose of this Policy, IAM refers to an independent accountability mechanism that is a member of the IAM Network.

IAM Network: A network of independent citizen-driven complaint and response mechanisms at international development finance institutions that have a mandate to consider social and environmental impacts/concerns.

IBRD: International Bank for Reconstruction and Development.

IDA: International Development Association.

IFC: International Finance Corporation.

IFC Exit: With respect to any Project, the earlier of (1) the termination of the financing, investment, or advisory relationship with the Client for such Project pursuant to the applicable Project agreements; or (2) when the Project ceases to exist, or the Project has been dropped by IFC after Board approval.

MIGA Exit: With respect to any Project, the earliest of (1) the expiration of the guarantee period; (2) the termination of MIGA's contract of guarantee; (3) the cessation of MIGA's liability under MIGA's contract of guarantee; (4) when the Project ceases to exist, or the Project has been dropped by MIGA after Board approval; or (v) when the Client ceases to have control over the Project.

Management: The Management of IFC or MIGA, or both, as applicable.

MAP: Management Action Plan.

MIGA: Multilateral Investment Guarantee Agency.

Operational Guidelines: CAO's Operational Guidelines dated March 2013.

Parties: The Complainant(s) and the Client(s) and/or Sub-Client(s).

Performance Standards: IFC's or MIGA's Performance Standards on Environmental and Social Sustainability, or both, as applicable.

Policy on Environmental and Social Sustainability: The Policy on Environmental and Social Sustainability of IFC or MIGA, or both, as applicable.

Policy: IFC/MIGA Independent Accountability Mechanism (CAO) Policy.

President: The President of the World Bank Group.

Project (IFC): (1) With respect to investment services or advisory services provided by IFC to a Client, the investment or advisory services contemplated by the relevant services agreement; and (2) with respect to financing or investment engagements, the business activities that are contemplated or may be supported under the applicable Project agreements. Where relevant engagements or agreements have not been definitively agreed or executed, Project means the services, project or activities being discussed or contemplated by IFC and the Client.

Project (MIGA): A project or set of projects into which the investment covered by MIGA or approved by the MIGA Board or MIGA Management (under delegated authority) has been made or is to be made. For Projects in relation to which MIGA has entered into a contract of guarantee, the term Project refers to the Investment Project (as such term is defined in MIGA's contract of guarantee). For Projects in relation to which MIGA has not yet entered into a contract of guarantee, the term Project refers to the project that the MIGA Board or MIGA Management (under delegated authority) had approved.

Sub-Client: A business directly supported by an FI Client that is within the use of proceeds requirements in IFC's finance or investment documents or MIGA's contract of guarantee.

Sub-Project: A business operation of a Sub-Client within the use of proceeds requirements in IFC's finance or investment documents or MIGA's contract of guarantee.

Sustainability Framework: IFC's or MIGA's Policy on Environmental and Social Sustainability, Performance Standards, and Access to Information Policy, as applicable.

Terms of Reference: CAO's Terms of Reference, instituted by the President, that established the CAO's mandate and formed the basis for the Operational Guidelines.

Threats and Reprisals: In connection with CAO pursuing its purposes, any detrimental act suggested, threatened, or taken, directly or indirectly, against a person to silence or punish him or her, prevent interaction with CAO, or prevent the submission or continued processing of a complaint. Forms of Threats and Reprisals include attempts at intimidation, harassment, discriminatory treatment, withholding of entitlement, risks to livelihood or reputation, and threats of physical violence, criminalization, or incarceration.

World Bank Group: IBRD, IDA, IFC, MIGA, and the International Centre for Settlement of Investment Disputes.

Photo: Rodrig Mbock/CAO

Photo: Felix Davey/CAO

SECTION I. BACKGROUND

1. As members of the World Bank Group, the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) believe that an important component of achieving positive development outcomes is the environmental and social sustainability of IFC and MIGA-supported business activities. IFC and MIGA pursue such environmental and social sustainability by applying their respective Policies on Environmental and Social Sustainability and associated Performance Standards.

2. The Office of the Compliance Advisor Ombudsman (CAO) was established in 1999 to address complaints related to IFC/MIGA Projects and to enhance environmental and social outcomes of these Projects.

3. This IFC/MIGA Independent Accountability Mechanism (CAO) Policy, which supersedes and replaces in its entirety the CAO Operational Guidelines and CAO Terms of Reference, outlines CAO's purpose, mandate and functions, core principles, governance, and operating procedures. Also, upon the adoption of this Policy, CAO will report to the Boards.

Photo: Felix Davey/CAO

SECTION II. PURPOSE

4. As the independent recourse and accountability mechanism for IFC/MIGA, CAO facilitates the resolution of complaints related to their Projects and Sub-Projects, undertakes investigations of IFC's and MIGA's environmental and social compliance, fosters public accountability for their commitments, and enhances the environmental and social performance of IFC and MIGA, as further described in this Policy.

5. In executing its mandate, CAO facilitates access to remedy for Project-affected people in a manner that is consistent with the international principles related to business and human rights included within the Sustainability Framework.

6. Accountability at IFC/MIGA is an institution-wide effort, incorporating multiple and interconnected roles and responsibilities for CAO, the Boards, and Management. The role of IFC/MIGA is to support effective and efficient execution of CAO's mandate pursuant to this Policy and to be accountable to the Boards. With this Policy, the Boards reaffirm the importance of CAO's mandate, its independence (as described in the core principles below) and integrity. The Boards have the final authority to interpret this Policy and will oversee its implementation.[1]

1 In connection with overseeing the implementation of this Policy, any Executive Director may request, within a reasonable time, for discussion by the Board, any item circulated for information pursuant to Section 3 (Actions Before, During, and After Board Meetings) of the Corporate Secretariat's Board Manual (SEC9.01-OTH.101).

SECTION III. MANDATE AND FUNCTIONS

7. CAO's mandate is to:

   a. Facilitate the resolution of Complaints from people who may be affected by Projects or Sub-Projects in a manner that is fair, objective, and constructive;

   b. Enhance the environmental and social outcomes of Projects or Sub-Projects; and

   c. Foster public accountability and learning to enhance the environmental and social performance of IFC/MIGA and reduce the risk of harm to people and the environment.

8. CAO operates through three complementary functions, which all contribute to delivering on this mandate:

   a. **Dispute Resolution function:** CAO helps resolve issues raised about the environmental and/or social impacts of Projects and/or Sub-Projects through a neutral, collaborative, problem-solving approach and contributes to improved outcomes on the ground.

   b. **Compliance function:** CAO carries out reviews of IFC/MIGA compliance with the E&S Policies, assesses related Harm,[2] and recommends remedial actions to address non-compliance and Harm where appropriate.

   c. **Advisory function:** CAO provides advice to IFC/MIGA and the Boards with the purpose of improving IFC's/MIGA's systemic performance on environmental and social sustainability and reducing the risk of harm.

9. CAO has no authority with respect to judicial processes. CAO is not a judicial or legal enforcement mechanism, nor is CAO a substitute for courts or regulatory processes, and CAO's analyses, conclusions, and reports are not intended or designed to be used in judicial or regulatory proceedings or for purposes of attributing legal fault or liability.

2 References to the capitalized term "Harm" in this Policy have the specific meaning ascribed to this term in the Glossary. References to "harm" in this Policy that are not capitalized should be read in accordance with the ordinary and customary meaning given to such term.

CAO's Three Roles

Dispute Resolution
Through its Dispute Resolution function, CAO works to resolve complaints through neutral, collaborative, problem-solving approaches that contribute to improved outcomes.

Compliance
Through its Compliance function, CAO reviews IFC and MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions.

Advisory
Through its Advisory function, CAO gathers insights from **dispute resolution** and **compliance** cases to catalyze learning and help enhance IFC and MIGA's performance on environmental and social issues.

Photo: Felix Davey/CAO

SECTION IV. CORE PRINCIPLES

10. CAO carries out its work guided by the following core principles:

a. **Independence and impartiality:** As independence and impartiality are prerequisites to encourage stakeholders' trust and confidence in CAO: not being identified with or beholden to any sector or interest and operating independently of Management, reporting directly to the Boards; conducting work without undue influence and ensuring the fair and objective conduct of staff; and making provisions to avoid conflicts of interest.

b. **Transparency:** Making every effort to keep Parties informed about processes and the progress of a complaint, and ensuring transparency and disclosure of CAO reports, including findings and outcomes.

c. **Accessibility:** Being known, accessible, and available to all stakeholders; mitigating barriers of access and promoting safe access through confidentiality and reprisal risk provisions; providing a process responsive to gender and disabilities; and communicating effectively with stakeholders to enhance their understanding of CAO.

d. **Responsiveness:** Being flexible, timely, and solutions-driven while considering disparities in power and resources between Parties.

e. **Fairness and equitability:** Carrying out CAO processes so that all relevant stakeholders are able to participate and be heard; have reasonable access to information, advice, and expertise; and are treated respectfully on fair, equitable, and informed terms.

f. **Predictability:** Offering clear and consistent processes and procedures with relevant timeframes and providing clarity with respect to the types of available outcomes and means of monitoring implementation to facilitate stakeholders' understanding and expectations of such processes and procedures.

g. **Consistency with good practice:** Following international good practice standards consistent with this Policy, including the responsibility of business to respect human rights.

h. **Continuous learning:** Consistently enhance CAO's effectiveness based on feedback from stakeholders, foster systemic improvements in the environmental and social performance of IFC/MIGA, and reduce the risk of harm to people and the environment.

Photo: Felix Davey/CAO

SECTION V. GOVERNANCE

DIRECTOR GENERAL, OFFICE OF THE COMPLIANCE ADVISOR OMBUDSMAN

11. CAO will be led by a Director General (CAO DG), as follows:

Roles and responsibilities

12. CAO is based in Washington, DC, at IFC headquarters and led by the CAO DG. The CAO DG reports to the Boards under the oversight of the Committee on Development Effectiveness (CODE). The CAO DG is responsible for the implementation of this Policy, managing CAO operations, and making decisions pursuant to this Policy. The CAO DG is directly accountable to the Boards and is not part of, and does not report to, Management.

Pre-employment conditions

13. To preserve CAO's independence, credibility, and integrity, candidates for the CAO DG position will be external to the World Bank Group, with the exception of CAO staff[3] who may apply for the CAO DG position. Executive Directors, Alternates, Advisors, and World Bank Group staff (other than CAO staff) may not be candidates for the CAO DG position or serve as CAO DG until two years have elapsed since the end of their service with the World Bank Group.

Experience and credentials

14. The CAO DG will be a person of impeccable integrity and credibility, with strong interpersonal skills, empathy, sound judgment, and a proven record of respected international leadership. S/he must demonstrate a set of core competencies, which include understanding or experience with: a broad range of civil society, including marginalized and vulnerable groups; the social, environmental, legal, or economic development fields; dispute resolution practices, including mediation and dialogue; compliance investigations/audits; the private sector business environment and financial products, especially frontier markets and developing countries; and institutional oversight, recourse and accountability functions, including grievance mechanisms.

3 For purposes of this Policy, the term "staff" refers to all persons holding World Bank Group appointments as defined in Staff Rule 4.01, including persons holding consultant and local consultant appointments.

Selection process

15. To maintain the independence of the CAO DG, a selection committee will be established to conduct an independent, transparent, and participatory selection process that involves stakeholders from diverse regional, sectoral, and cultural backgrounds, including civil society and business communities. CAO, IFC, and MIGA will solicit nominations for the selection committee from stakeholders and forward them to the CODE Chair and Vice-Chair for their consideration. The CODE Chair and Vice-Chair will appoint six people to form the selection committee, including two Executive Directors, two senior representatives from the global business community, and two senior representatives from the civil society community, and appoint one of these Executive Directors as chair of the selection committee. World Bank Group Human Resources will provide administrative support to the selection committee, including identifying and engaging a reputable and recognized recruitment firm, but will not provide any view or advice on any candidate. The selection committee will review applications, determine a shortlist, and conduct interviews with shortlisted candidates.

16. The selection committee will establish a process for receiving formal input from CAO, Management, and the CODE Chair and Vice-Chair, including the conduct of interviews with shortlisted candidates. CAO and Management may be invited to interview shortlisted candidates.

17. The selection committee will recommend the finalist candidate(s) to the President, with ranking if needed, for further consideration. The President will select the final candidate and/or may request additional information. World Bank Group Human Resources will ascertain the candidate's interest and availability and conduct necessary reference checks. Following further consultation with the selection committee as necessary, the President will put forward the nomination to the Boards for their decision.

Term and renewal

18. Following the selection process, the Boards will nominate the CAO DG to be appointed for a five-year term based in Washington, DC. The CAO DG's term may be renewed for one additional five-year term, following the recommendation of CODE and approval of the Boards. The CAO DG will inform the Boards in writing of his/her interest to seek a second term. If so, the President will consult the Boards in an executive session, following which a recommendation will be made to the Boards for approval. If the CAO DG does not seek renewal, or if the renewal is not

approved, the vacancy will be advertised, and the selection process initiated. Upon conclusion of the appointment, the CAO DG is restricted for life from obtaining employment with the World Bank Group.

Immunities and compensation

19. The CAO DG is a full-time employee at the level of Vice President. S/he is subject to the World Bank Group Staff Rules. The Boards will review and determine the compensation package to be offered to the CAO DG (including standard benefits available to IFC/MIGA fixed-term staff) upon the President's recommendation. The performance review of the CAO DG is managed under the oversight of CODE with the advice of the Vice President, World Bank Group Human Resources. The CAO DG does not receive a performance rating and is not entitled to performance-based compensation. The same annual salary adjustment that the Boards approve for Vice Presidents will apply to the CAO DG's salary unless the Boards decide otherwise.

Removal

20. The CAO DG may be removed from office only by a decision of the Boards, for cause, as determined by the Boards on the recommendation of CODE. Any decision to remove him/her for cause is subject to the Boards' approval. The Boards make this decision based on a report prepared by CODE that the President transmits to the Boards. In the transmittal document, the President may express his/her disagreement with the course of action recommended by CODE. A decision taken by the Boards for the removal of the CAO DG will be an administrative decision, subject to recourse directly before the World Bank Group Administrative Tribunal pursuant to the Appeals Procedures and Rules of Procedure.

BUDGET

21. The Boards will provide CAO such budgetary resources sufficient to carry out its activities. The CAO DG will prepare an annual itemized budget identifying a sufficient level of resources to ensure that CAO can carry out all of the roles, responsibilities, and activities set out in this Policy in an effective way. The CAO DG will be responsible for determining the allocation of resources within CAO, including appropriate staffing and recruitment of consultants and experts. The CAO DG will submit the annual budgetary requirements for consideration to CODE and the Budget Committee and approval by the Boards.

STAFFING

22. The CAO DG manages CAO staff, to whom applicable World Bank Group Human Resources policies and procedures apply. CAO staff are staff of the World Bank Group for all purposes, including with respect to immunities and privileges and are subject to World Bank Group Staff Rules. The CAO DG is free to make staffing decisions within the approved budget limits, without the Boards' or Management's involvement. Contracts for CAO staff restrict staff at the level of specialist and above from obtaining employment with IFC or MIGA for two years after the end of their engagement with CAO, subject to any exception to this restriction that may be mutually agreed between the CAO DG and the Vice President responsible for human resources at IFC or a member of senior management responsible for human resources at MIGA, as applicable, with the goal to avoid any actual or perceived conflict of interest. The credibility of CAO staff and consultants is critical to CAO's work. If a CAO staff or consultant has a conflict of interest about a particular case, that person will withdraw from involvement in that case. In exceptional circumstances, contractual arrangements for CAO consultants may impose time-bound restrictions on their future involvement with IFC or MIGA.

ACCOUNTABILITY AND REPORTING

23. CAO is accountable to and reports directly to the Boards.

24. CAO informs the Boards and provides regular updates to CODE regarding its activities. CAO case reports, advisory work, and annual reports are all made publicly available. Although CAO reports to the Boards, CAO communicates with the President as relevant or requested.

Photo: Felix Davey/CAO

Photo: Felix Davey/CAO

SECTION VI. ACCESS TO INFORMATION AND DISCLOSURE

ACCESS TO INFORMATION

25. IFC/MIGA will cooperate to provide CAO with full and timely access to Project-related information held by them, including access to their staff, consultants, and files (including electronic and hard copy files), as the CAO DG reasonably considers relevant for carrying out CAO's role under this Policy.

26. Financing or advisory agreements, and contracts of guarantee between IFC/MIGA and their Clients will include obligations for the Clients to permit CAO to (1) have access to the Clients' records relating to the Project, and in the case of financial intermediary (FI) Clients, such FI Clients' records relating to relevant Sub-Clients and relevant Sub-Projects, and (2) visit and inspect the Project, for the purpose of carrying out CAO's role under this Policy, upon reasonable prior notice to the Clients, and subject to any applicable laws and regulations.

DISCLOSURE

27. In carrying out its work, CAO will apply a presumption in favor of disclosure of environmental and social information, and at the same time, maintain the confidentiality of sensitive commercial information.

28. CAO is covered by the Access to Information Policies (AIPs) of IFC and MIGA. Accordingly, CAO may disclose information gathered during its activities, subject to the AIPs and other applicable requirements. If necessary and unavailable through other sources, a CAO report may, subject to the escalation procedure in paragraph 29 below, summarize relevant non-public environmental or social information following consultation with Management.

29. Any issue of access or disclosure should be discussed between the CAO DG and Management with a view to resolution. If the issue is not resolved, including whether any information is confidential and whether and how it can be disclosed or protected, it will be referred for discussion among the IFC/MIGA General Counsel (in his/her institutional capacity), CODE Chair and Vice-Chair, CAO DG, and Management.

Photo: CAO

SECTION VII. LODGING A COMPLAINT AND SCREENING FOR ELIGIBILITY

LODGING A COMPLAINT

Who may lodge a complaint

30. Any individual or group, or representative they authorize to act on their behalf, who believes they are or may be harmed by a Project or Sub-Project may lodge a complaint with CAO.

How to lodge a complaint

31. Complaints should be submitted in writing and may be presented in any language. Complaints should be sent or delivered to the CAO office in Washington, DC, and may be submitted electronically. CAO will maintain confidentiality upon receiving a complaint if requested to do so by the Complainant.

What to include in a complaint

32. Complaints may relate to environmental and social harm regarding any aspect of the planning, implementation, or impact of a Project or Sub-Project. While Complainants are encouraged to provide as much of the information requested as possible to facilitate CAO understanding of the complaint, lack of information will not prevent CAO from reviewing a complaint.

33. There are no formal requirements for lodging a complaint with CAO, but complaints should include the following information:

    a. The Complainant's name(s), address, and other contact information.

    b. If the party lodging the complaint is doing so on behalf of a Project-affected person(s), such party should identify on whose behalf the complaint is made. Such party should also present evidence that it has been requested to present the complaint on behalf of the Project-affected person(s).

    c. If the Complainant wishes that CAO keep their identity or any information communicated as part of the complaint confidential.

d. The identity and nature of the Project or Sub-Project.

e. A statement of how the Complainant believes they have been, or may be, harmed by the Project or Sub-Project.

34. In addition, the Complainant may wish to provide information on the following:

a. Whether anything has been done by the Complainant to attempt to resolve the problem, including any contact with IFC/MIGA staff, the Client, Sub-Client, or the host government, and what aspects remain unresolved.

b. How the Complainant thinks non-compliance with E&S Policies may have occurred, without the need to specify particular policies, guidelines, or procedures.

c. A clear statement of results that the Complainant views as the most desirable outcome of the process.

d. Any other relevant facts, supporting documents, or other relevant materials.

35. On request, CAO will provide guidance on how to lodge a complaint without providing advice regarding the substance of the complaint. The CAO website includes a model complaint letter. Potential complainants may also contact CAO for clarification before lodging a complaint.

SCREENING A COMPLAINT FOR ELIGIBILITY

Eligibility criteria and considerations

36. The first step that CAO takes after receiving a complaint is to acknowledge its receipt. After the acknowledgment, CAO will screen the complaint against the eligibility criteria. If the complaint is not clear, CAO will seek additional information or clarification from the Complainant. If CAO decides to reject the complaint on the basis of its eligibility criteria, CAO will close the file on the complaint and inform the Complainant in writing of this decision. CAO's eligibility decision does not constitute a judgment on the merits of the complaint.

37. CAO will deem the complaint eligible if:

a. The complaint relates to an Active Project;

b. The issues raised in the complaint pertain to CAO's mandate to address environmental and social impacts of Projects; and

c. The Complainant is or may be affected by the harm raised in the complaint.

38. Complainants and Clients/Sub-Clients are encouraged to make good faith efforts to resolve concerns in the most effective and efficient manner, at the Project level where possible. Within the scope of their respective mandates, CAO, IFC, and MIGA are committed to facilitating the early resolution of complaints.

39. After determining a complaint to be eligible, CAO will enquire (1) whether good faith efforts have been made by the Complainants with IFC/MIGA and/or the Client or Sub-Client to address the issues raised in the complaint or (2) if such efforts were not undertaken, why. In the event CAO understands that the Complainant has not made any good faith efforts with IFC/MIGA or the Client or Sub-Client, CAO will establish whether the Complainant wishes to refer the complaint to IFC/MIGA or the Client or Sub-Client. In the event the Complainant does, CAO will refer such complaint to IFC/MIGA and/or the Client or Sub-Client. Complainants who have decided to pursue their complaint with IFC/MIGA and/or the Client or Sub-Client may notify CAO at any time of their desire to resume the processing of the complaint by CAO in accordance with this Policy. In the event no such good faith efforts were made, and the Complainant still wishes to pursue a complaint with CAO, CAO will record the Complainant's response that no such efforts were made.

40. Complainants are permitted to refile a previously ineligible complaint where they present new information.

Additional eligibility criteria for specific complaint types

41. In addition to the eligibility criteria in paragraphs 36–40 above, the criteria below will apply to the following types of complaints:

a. For complaints pertaining to FI Sub-Projects, whether: (1) the complaint pertains to a Sub-Project within the scope of the financial product being offered to an FI by IFC or guaranteed by MIGA under the applicable financing agreement or contract of guarantee (e.g., if IFC is providing equity or financial support or MIGA is providing a non-commercial risk guarantee in relation to an investment in the FI, or the Sub-Project is within any ringfence that IFC contractually established with the FI or that MIGA contractually established with its Guarantee Holder); (2) there is a material link between the FI Client and its active Sub-Client that is the subject of the complaint

(considering factors including the nature of the financing, the share, type, and tenor of the FI investment/debt exposure to the Sub-Project); and (3) there are indications of a plausible link to harm or risk of harm to the Complainant related to the Sub-Project.

b. For complaints pertaining to primary suppliers (as such term or any successor term is understood under the Sustainability Framework), whether: (1) the complaint pertains to the supplier's activities and impacts directly related to its role in supplying the Client/Sub-Client, and (2) the activities and impacts in question are linked to the Client's E&S responsibilities.

c. Complaints relating to subcontractors of the primary supplier will only be eligible to the extent they meet the two conditions set forth in (b) above, and, in addition, the Client/Sub-Client had a responsibility to ensure that its primary suppliers managed the subcontractor's environmental and social risks raised in the complaint.

Exclusions

42. CAO will deem the following complaints ineligible:

a. Complaints that are clearly fraudulent, frivolous, malicious, or generated to gain competitive advantage;

b. Allegations of fraud and/or corruption. CAO will refer these allegations to the World Bank Group Integrity Vice Presidency;

c. Complaints relating to an International Bank for Reconstruction and Development/International Development Association (IBRD/IDA) project. CAO will refer these complaints to the World Bank Independent Accountability Mechanism;

d. Complaints relating exclusively to IFC/MIGA procurement decisions. CAO will refer these complaints to IFC/MIGA;

e. Complaints related to Projects which are pending Board approval (see paragraph 47–48 below). CAO will refer these complaints to the Board and Management;

f. Complaints related to Projects where IFC/MIGA Exit has occurred, except as provided in paragraph 49 below;

g. Complaints that focus exclusively on global impacts of a global public good. CAO will refer these Complaints to IFC/MIGA;

h. Complaints from an individual related to working conditions and terms of employment where there is no reason to believe that the issues raised are systemic in nature. CAO will refer these complaints to IFC/MIGA; and

i. Complaints that are the same in all material respects as a complaint that has previously been submitted to CAO, unless CAO determines there has been a material change in circumstances.

43. When CAO refers a complaint to Management or another mechanism, CAO will seek the prior consent of the Complainant, after discussing the rationale for and implications of such referral, to ensure that no confidential information is shared.

Timeline for eligibility decisions

44. Eligibility screening and determination will take no more than 15 Business Days from CAO's acknowledgment of receipt of the complaint. However, where CAO needs to receive clarification from the Complainant or from IFC/MIGA to make an eligibility determination, CAO may extend this period for an additional period of up to 20 Business Days, after which CAO will make an eligibility decision on the basis of the best available information. CAO will notify the Complainant, Management, and the Board of any extension.

Complaints registry

45. CAO will publish a complaints registry on its website. The registry will contain the information described below.

Eligible complaints:

a. A brief summary of the issues raised in the complaint;

b. Date of receipt;

c. The name, sector, and location (country or countries) of the Project and/or Sub-Project that is the subject of the complaint;

d. Information about IFC/MIGA's exposure to a Project that is derived from public information disclosed by IFC/MIGA;

e. With regard to complex cases, succinct reasoning for the eligibility decision; and

f. Information on the status of CAO's complaint handling process.

Ineligible complaints:

a. The subject matter of the complaint (e.g., labor, resettlement, etc.);

b. Date of receipt;

c. The location (country or countries) and sector of the Project or Sub-Project operates, but not the Client's or Sub-Client's identity; and

d. The basis for the ineligibility determination (including succinct reasoning in complex cases).

46. CAO will not post the complaint itself at the eligibility stage, though, as noted above, a brief summary of eligible complaints will be posted.

Complaints received before Board approval of Project

47. If a complaint is received on a Project under active consideration by IFC/MIGA but not yet approved by the Board, CAO will deem the complaint ineligible. CAO will refer these complaints to the Board and Management.

48. CAO will disclose information about an ineligible pre-Board complaint following the provisions in paragraph 45 above.

Complaints received after IFC/MIGA Exit

49. In exceptional circumstances, CAO may deem eligible a complaint submitted up to 15 months after an IFC/MIGA Exit, where: (1) there are compelling reasons why the complaint could not be made before the IFC/MIGA Exit; (2) all of CAO's other eligibility criteria are met; and (3) after consultation with Management, CAO considers that accepting the complaint would be consistent with CAO's mandate.

CAO Eligibility Process

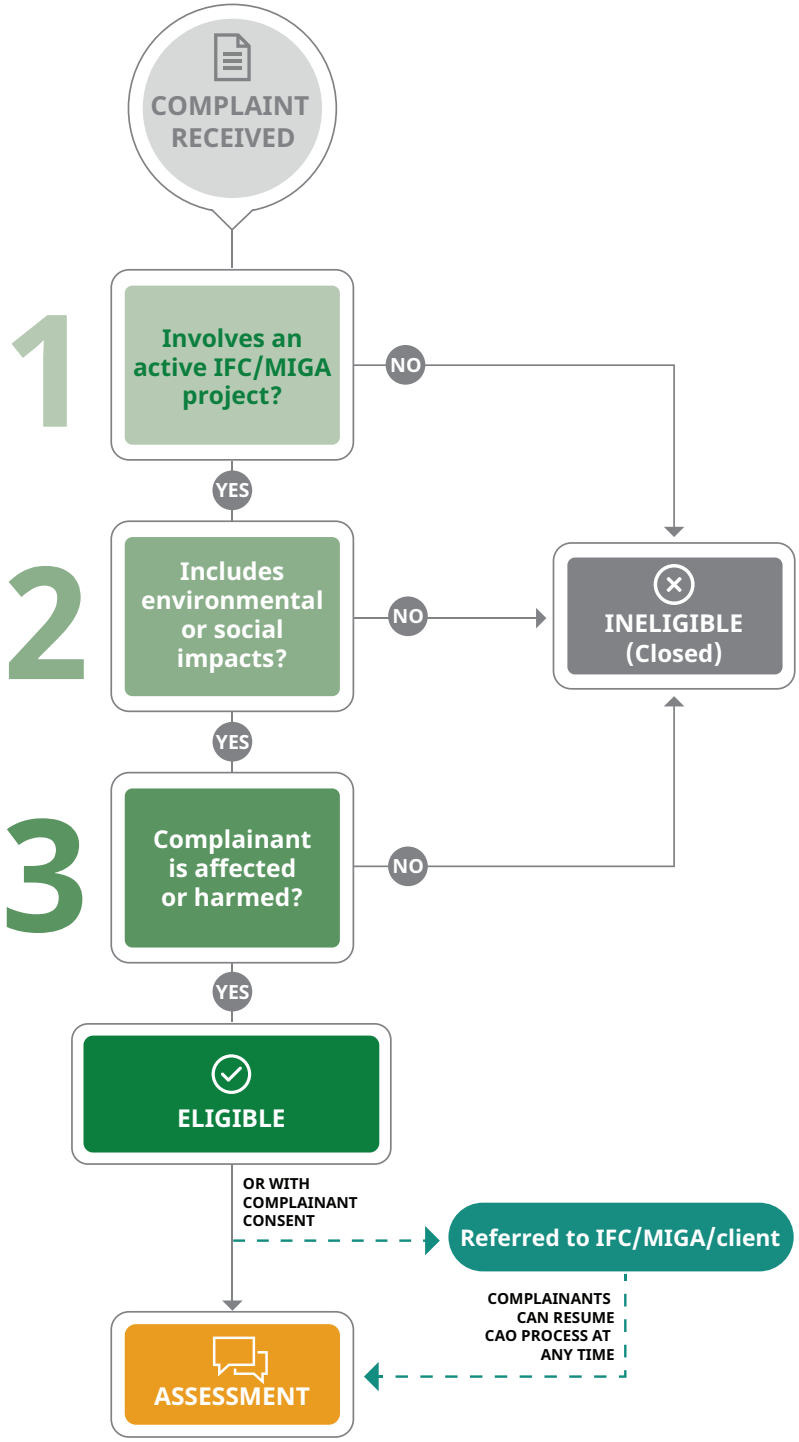


Photo: Felix Davey/CAO

SECTION VIII. ASSESSMENT

PURPOSE OF ASSESSMENT

50. Once CAO determines a complaint eligible, it will conduct an assessment of the complaint to:

- **a.** Develop a thorough understanding of the issues and concerns raised in the complaint;
- **b.** Engage with the IFC/MIGA Project team;
- **c.** Engage with the Complainant and the Client and, to the extent possible, Sub-Client;
- **d.** Identify the local communities and any additional stakeholders relevant to the complaint;
- **e.** Explain CAO's different functions, their scope, and possible outcomes to the Parties and other stakeholders;
- **f.** Determine whether the Parties seek to initiate CAO's Dispute Resolution or Compliance function; and
- **g.** Consider the status of other grievance resolution efforts.

51. CAO's assessment of the complaint does not entail any judgment on the merits of the complaint.

ASSESSMENT PROCESS

Assessment approach

52. In carrying out its assessment, CAO will give Complainants, Clients, Sub-Clients, and IFC/MIGA an opportunity to ask questions and consult with CAO staff to facilitate informed decision-making and understanding of CAO's mandate, services, and procedures. CAO will consider any Project-specific or relevant information provided by, or through, engaging with Complainants, Clients, Sub-Clients, IFC/MIGA, and other relevant stakeholders.

53. CAO will approach assessments in a flexible manner. CAO will typically conduct the following activities during its assessment of the complaint:

- **a.** Review IFC/MIGA Project- or Sub-Project-related files.

b. Meet with the Complainant, Client, Sub-Client, IFC/MIGA staff, and, where relevant, government officials of the country where the Project or Sub-Project is located, representatives of local and international civil society organizations, and other stakeholders.

c. Visit Project and, to the extent possible, Sub-Project sites.

d. Where necessary, hold public meetings in the Project or Sub-Project area.

e. Where deemed necessary by any Party, consider the relevance of concluded, pending or ongoing judicial or non-judicial proceedings.

54. When planning a visit, CAO will notify IFC/MIGA, the Client, Sub-Client, Complainant, and other relevant stakeholders of its plans.

55. If the Parties consent, they may engage directly with one another during the assessment process to resolve the issues raised in the complaint. Such engagement may take place without the direct involvement of CAO. CAO's assessment report will summarize the outcomes of such engagement. Where appropriate, and within the scope of their respective mandates and with the Parties' consent, IFC/MIGA may support the constructive resolution of issues related to the complaint. Where the complaint issues are resolved, and subject to the Complainant's consent, CAO will issue an assessment and conclusion report to close the case.

Timeframe

56. CAO will complete the assessment within 90 Business Days of the date it determines a complaint to be eligible. The CAO DG may extend the assessment timeframe by a period not exceeding 30 Business Days if after the 90 Business Day period: (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree. CAO will notify the Parties, IFC/MIGA, and the Board of the decision to extend the assessment, and CAO will post such decision on its website.

Staffing

57. CAO Dispute Resolution experts will carry out the assessment of a complaint.

IFC/MIGA role

58. In connection with any complaint, IFC/MIGA staff may engage with the Client/Sub-Client, other stakeholders, and CAO during the assessment process. IFC/MIGA may continue to support its Clients in their responsiveness to the issues raised in the complaint. To the extent possible, IFC/MIGA will inform CAO of such engagements with its Clients.

OUTCOMES OF ASSESSMENT

Parties' decision

59. During the assessment process, the Complainant and the Client and/or Sub-Client decide whether they would like to initiate CAO's Dispute Resolution or Compliance function. If both Parties agree to undertake dispute resolution, CAO will facilitate this process. If there is no agreement, the complaint will proceed to CAO's Compliance function.

Assessment reports

60. At the conclusion of the assessment process, CAO will produce an assessment report that includes:

- **a.** A broad summary of the information gathered and the Parties' perspectives of the issues raised in the complaint during the assessment, including views from other stakeholders as deemed relevant;
- **b.** The decision of the Parties to pursue a dispute resolution process or if the complaint will proceed to the Compliance function; and
- **c.** A copy of the complaint and any Client and/or Sub-Client response that may be provided, redacted to protect the confidentiality of the Complainant where appropriate.

61. CAO will provide a draft assessment report to the Parties and IFC/MIGA for factual review and comment for at least 10 Business Days prior to finalizing the report. CAO will share the final assessment report with the Parties, Management, and the Board and will publish it on CAO's website.

CAO Assessment Process

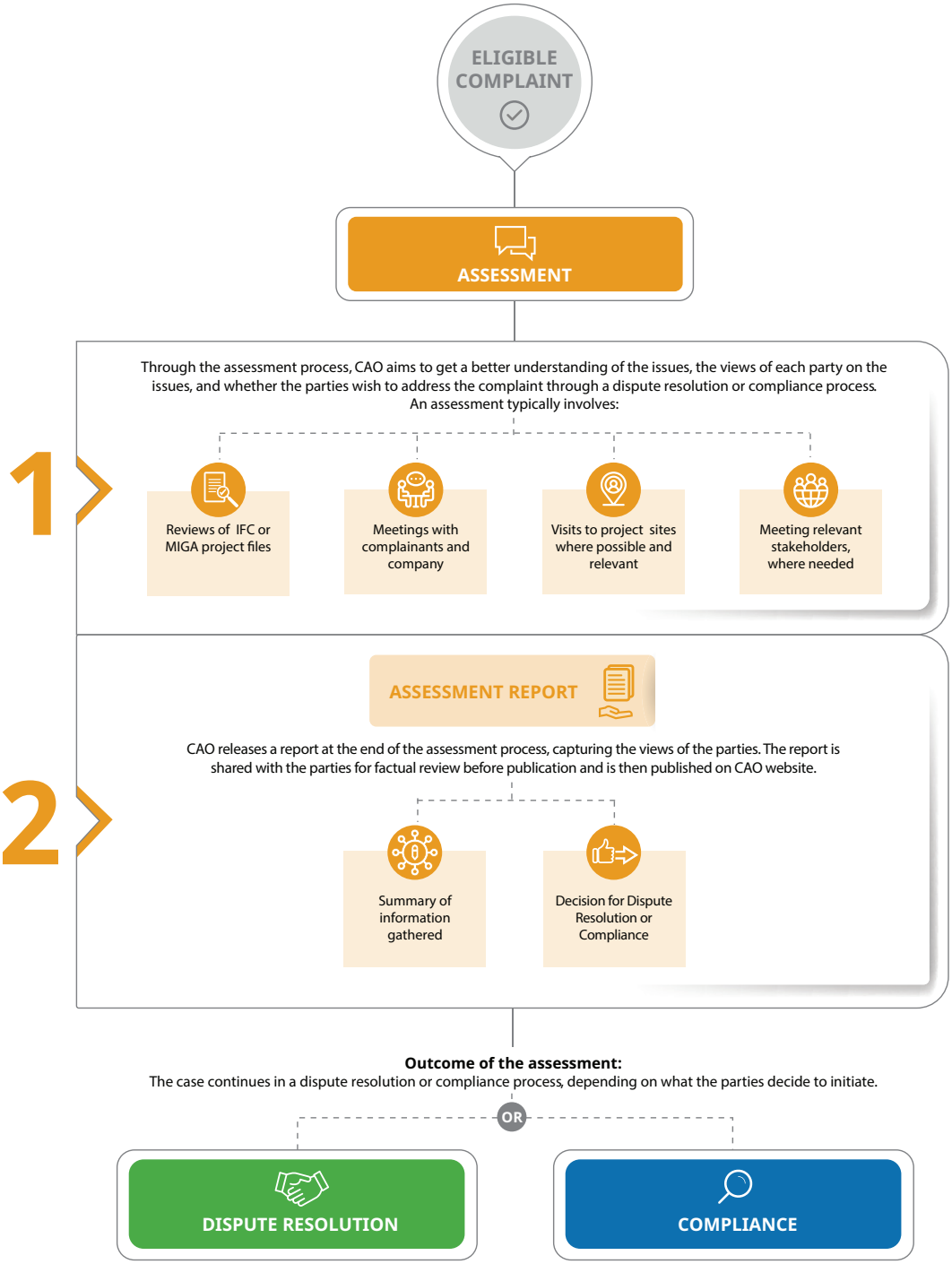


Photo: Felix Davey/CAO

Photo: Felix Davey/CAO

SECTION IX. DISPUTE RESOLUTION

PURPOSE

62. The purpose of CAO's Dispute Resolution function is to help resolve issues raised about the environmental and/or social impacts of Projects or Sub-Projects through a neutral, collaborative, problem-solving approach and to contribute to improved outcomes on the ground.

PRINCIPLES AND APPROACH TO DISPUTE RESOLUTION

63. Engaging in a dispute resolution process is a voluntary decision and requires agreement between the Complainant and the Client and/or Sub-Client, at a minimum. As a nonjudicial, non-adversarial, neutral forum, CAO's dispute resolution approach provides a process through which Parties may find mutually satisfactory solutions to the issues raised in the complaint and any other significant issues identified during the assessment. CAO conducts the process in a manner acceptable to the Parties and treats all participants in a dispute resolution process fairly and equitably.

64. CAO seeks to work directly with the Project-affected people, recognizing that local communities, minorities, and vulnerable groups often have much to gain or lose from a Project or Sub-Project. CAO recognizes that these groups of people typically live with the impacts and benefits of the Project or Sub-Project and have an ongoing relationship with the Project or Sub-Project.

APPROACHES TO DISPUTE RESOLUTION

65. CAO, in consultation with the Parties, may use different approaches in attempting to find a resolution of the issues, including:

    a. Mediation: Mediation involves the intervention by a neutral third party in a dispute or negotiation to assist the Parties in voluntarily reaching their own mutually satisfying resolution.

    b. Facilitation and information sharing: In many cases, the complaint will raise questions regarding the current or anticipated impacts of a Project or Sub-Project. The CAO dispute resolution team may help the Parties obtain information or clarifications that may result in resolution.

c. Joint fact-finding: Joint fact-finding is an approach that encourages the Parties to agree on the issues to be examined; the methods, resources, and people that will be used to conduct the examination; and the way that the Parties will use the information generated from the joint fact-finding process.

d. Dialogue and negotiation: Where communication among Parties has been limited or disrupted, the CAO dispute resolution team may encourage the Parties to engage directly in dialogue and negotiation to address and resolve the issues raised in the complaint. The CAO dispute resolution team may offer training and/or expertise to assist the Parties in this process.

REACHING AND DOCUMENTING AGREEMENTS

66. Any agreement reached should be specific in terms of objective, nature, and requirements and, at the discretion of the Parties, documented in written form.

67. In pursuit of a resolution, CAO will not knowingly support agreements that would coerce one or more Parties, be contrary to IFC/MIGA policies, or violate applicable domestic laws or international law.

MONITORING IMPLEMENTATION OF AGREEMENTS

68. Where the Parties have reached an agreement through the CAO dispute resolution process, CAO will monitor the implementation of the agreement. CAO will inform the Parties and IFC/MIGA when the case has formally moved to the monitoring phase. CAO will share interim updates with Management and will publish such updates on CAO's website every six months during the monitoring phase.

OUTCOMES AND CONCLUSION OF THE DISPUTE RESOLUTION

Full resolution

69. If the Parties reach an agreement and inform CAO that the agreed terms have been implemented to the Parties' mutual satisfaction, CAO will conclude the dispute resolution process and close the case.

Partial agreement or absence of agreement

70. CAO will conclude the dispute resolution process if:

a. One or more Parties wishes to exit at any point in the process;

b. The Parties fail to reach an agreement;

c. The Parties fail to implement the terms of an agreement; or

d. The Parties reach a partial agreement but are unable to reach an agreement on other complaint issues.

71. Upon conclusion of the dispute resolution process with partial or no agreement, CAO will enquire whether the Complainant wishes to transfer the complaint to CAO's Compliance function. CAO will transfer the complaint to the Compliance function where one (or more) Complainant(s) provides explicit consent, or otherwise will close the case. In situations where CAO is aware of concerns regarding Threats and Reprisals, to protect the Complainant, CAO may transfer the complaint to the Compliance function without the need for a Complainant's explicit consent.

72. CAO will provide a draft conclusion report to the Parties and IFC/MIGA for factual review and comment for at least 10 Business Days prior to finalizing the report. CAO will release a conclusion report that summarizes core process steps and outcomes and the rationale for concluding the dispute resolution process. The conclusion report will be circulated to the Parties, the Board, and Management and publicly disclosed on CAO's website.

ROLE OF MEDIATORS

73. In managing the dispute resolution process, CAO will determine the knowledge and skills required in each case and engage a mediator who:

a. Possesses the appropriate expertise;

b. Has the ability to understand the cultural context; and

c. Is considered acceptable as independent and impartial by the Parties.

74. CAO will include specific confidentiality requirements in mediator contracts in addition to the general confidentiality provisions provided by World Bank Group contracts.

IFC/MIGA ENGAGEMENT IN THE DISPUTE RESOLUTION PROCESS

75. Where appropriate and agreed by the Parties, IFC/MIGA may be invited to participate in a CAO dispute resolution process. IFC/MIGA will consider its participation on a case-by-case basis.

CAO Dispute Resolution

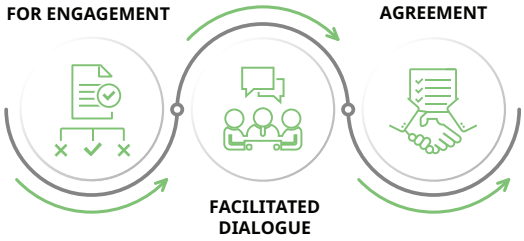
DR PROCESS INITIATED

Transfer from: ASSESSMENT

CAO engages with parties and relevant stakeholders to understand issues raised in the complaint and explain the CAO Dispute Resolution and Compliance processes.

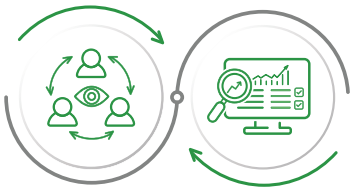
1 DISPUTE RESOLUTION

If the parties choose dispute resolution, CAO, with the help of an independent mediator, will design a process with them, which may include capacity building and coaching to enable equity between the parties during negotiations.



2 MONITORING

CAO monitors the agreement to ensure that the agreed-upon actions and commitments are implemented to the mutual satisfaction of the parties.



CASE CLOSED

Case closes once agreed actions have been fully implemented to the satisfaction of the parties or if the parties request CAO to close the case.

At any point in the process, any party has the option to withdraw. If the agreement is not satisfactorily implemented, the case will be transferred to CAO's compliance function, with consent from at least one complainant.

Note: If at any stage in the process, one or more parties wish to exit the process, if an agreement is not reached, the case will transfer to CAO's Compliance function with the consent of at least one complainant.

Photo: Rodrig Mbock/CAO

Photo: Rodrig Mbock/CAO

SECTION X. COMPLIANCE

PURPOSE

76. The purpose of the CAO Compliance function is to carry out reviews of IFC/MIGA's compliance with E&S Policies, assess related Harm, and recommend remedial actions where appropriate.

77. CAO's Compliance function does not evaluate the adequacy or suitability of E&S Policies and does not make findings in relation to compliance of a Project, Sub-Project, Client, or Sub-Client with the Performance Standards. However, in making findings regarding Harm and whether any Harm is related to IFC/MIGA non-compliance with their E&S Policies, CAO will assess, as relevant, IFC/MIGA's review and supervision of its E&S Requirements at the Project- or Sub-Project-level, and consider Project- or Sub-Project-level E&S performance.

78. The CAO Compliance function follows a three-step approach: (1) compliance appraisal, which determines whether further investigation is warranted. If warranted, the appraisal is followed by (2) compliance investigation and (3) compliance monitoring, as described below.

COMPLIANCE APPRAISAL PROCESS

79. The purpose of the appraisal process is to determine whether a complaint or internal request merits a compliance investigation based on the criteria set out below.

Initiating a compliance appraisal

Compliance appraisal in response to a complaint

80. CAO will commence a compliance appraisal in response to a complaint transferred to the Compliance function following a CAO assessment process or a CAO dispute resolution process.

Compliance appraisal in response to an internal request

81. CAO may initiate a compliance appraisal of one or more Projects or Sub-Projects in response to an internal request from the CAO DG, the President, the Board, or Management.

82. Such internal request may be made in circumstances where: (1) an appraisal is deemed necessary to review environmental and social

compliance issues of systemic importance to IFC/MIGA; (2) concerns exist regarding particularly severe Harm; or (3) Project-affected people may be subject to, or fear, reprisals, preventing them from lodging a complaint with CAO.

83. Requests initiated by the CAO DG, the President, the Board, or Management should include a written rationale for the compliance appraisal request.

84. For compliance appraisals of more than one Project or Sub-Project, CAO will consult with Management before commencing the appraisal.

Management and/or Client response

85. CAO will notify Management in writing of the transfer of a complaint to CAO's Compliance function for appraisal. Management will have 10 Business Days from the date of transfer to respond to the issues raised in the complaint. Upon request from Management, this timeframe would be extended for up to 10 Business Days in exceptional circumstances. In such a case, the 45-Business Day period in paragraph 95 would be extended by the same number of days.

86. In its response, IFC/MIGA will outline the steps IFC/MIGA and/or its Client or Sub-Client have already taken, or intend to take, to facilitate compliance with relevant policies, procedures, and E&S Requirements, to address the allegations of Harm raised by the Complainants or raised in an internal request, and indicate whether a deferral of any compliance investigation is requested.

87. The Client may respond in writing to the issues raised in the complaint within the same timeframe above. CAO will take into account the IFC/MIGA and Client responses during the appraisal.

Scope of compliance appraisal

88. A compliance appraisal in response to a complaint will consider issues raised in the complaint or identified during the CAO assessment phase, but not those resolved during a CAO dispute resolution process.

89. A compliance appraisal in response to an internal request will consider issues raised in the request.

Appraisal approach

90. In preparing its appraisal report, CAO will review the complaint/internal request, assessment report, Management and/or Client response, and any other documents that CAO may request and receive from the Complainant, Management, the Client, and other parties.

91. CAO will apply the following appraisal criteria in determining whether a compliance investigation is necessary:

- **a.** Whether there are preliminary indications of Harm or potential Harm;
- **b.** Whether there are preliminary indications that IFC/MIGA may not have complied with its E&S Policies; and
- **c.** Whether the alleged Harm is plausibly linked to the potential non-compliance.

92. During a compliance appraisal, CAO will also consider the following:

- **a.** For any Project or Sub-Project where an IFC/MIGA Exit has occurred at the time CAO completes its compliance appraisal, whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite an IFC/MIGA Exit.
- **b.** The relevance of any concluded, pending or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint.
- **c.** Whether Management has clearly demonstrated that it dealt appropriately with the issues raised by the Complainant or in the internal request and followed E&S Policies or whether Management acknowledged that it did not comply with relevant E&S Policies.
- **d.** Whether Management has provided a statement of specific remedial actions, and whether, in CAO's judgment after considering the Complainant's views, these proposed remedial actions substantively address the matters raised by the Complainant.

93. In relation to a Project or Sub-Project that has already been the subject of a compliance investigation, CAO may: (1) close the complaint; (2) merge the complaint with the earlier compliance process, if still open, and the complaint is substantially related to the same issues as the earlier compliance process; or (3) initiate a new compliance investigation only where the complaint raises new issues or new evidence is available.

94. The appraisal process does not lead to a definitive assessment of IFC/MIGA's compliance with its E&S Policies or related Harm. CAO may make these assessments only in the context of an investigation.

95. CAO will complete the compliance appraisal process within 45 Business Days of the transfer of the complaint to CAO's Compliance function and may extend the appraisal process by up to an additional 20 Business Days in exceptional circumstances, in which case CAO will notify the Complainant, Management, and the Board of the extension.

Appraisal decision

96. At the conclusion of the appraisal process, CAO will prepare an appraisal report stating its reasoning and decision on whether to investigate, merge, defer, or close the case. When the appraisal outcome is a decision to investigate, CAO's appraisal report will also include terms of reference (see paragraph 118 below), indicating the scope of the compliance investigation.

97. Every appraisal decision, whether to investigate, close, or defer, will be made at the discretion of the CAO DG, applying the criteria set out in this section (see paragraphs 91–92 above).

Deferral of a decision to investigate

98. In specific cases that meet the criteria for a compliance investigation (see paragraphs 91–92 above) as well as the criteria below, the CAO DG may decide to defer the decision to investigate to allow IFC/MIGA, the Client, and the Complainant to resolve issues directly:

Criteria for decision to defer

a. The severity of alleged Harm and potential compliance issues raised by the Complainant, including whether the issues of alleged Harm are clearly defined, limited in scope, and appear to be amenable to early resolution;

b. Whether the Management response includes specific commitments that are commensurate with the issues raised in the complaint or during the assessment, and consistent with IFC/MIGA policy requirements;

c. The views of the Complainant as to the impact (positive and negative) of a decision to defer; and

d. Other information deemed relevant by CAO.

99. In order to consult with the Complainant on deferral, CAO may share the Management and Client responses (or any portions thereof) with the Complainant, on the condition that appropriate measures are in place to safeguard the confidentiality of such responses prior to public disclosure.

Framework for deferral

100. In cases in which CAO decides to defer the decision to investigate, CAO should establish and make public as part of its appraisal report:

a. CAO's analysis of the criteria for deferral as set out above;

b. The conditions of the deferral as agreed by Management;

c. A framework for monitoring during the deferral period, including a schedule for IFC/MIGA reporting on the progress made on commitments by Management to address the issues raised by the Complainants; and

d. A timeline for the deferral period, typically no longer than six months, including for CAO to issue a report on IFC/MIGA implementation of commitments in the Management response and whether these have addressed the issues raised in the complaint or during the assessment phase.

Conclusion of deferral period

101. During the deferral period, if CAO assesses that the conditions have materially changed, or making progress is unlikely or unfeasible, CAO may end the deferral and commence a compliance investigation.

102. Upon the conclusion of the deferral period, the CAO DG may decide to:

a. Close the case if the issues raised in the complaint have been substantially addressed and there is no particular value for accountability, institutional learning, or remedial action from conducting an investigation;

b. Extend the deferral period if considerations above remain (see paragraph 98 above), and there is in CAO's analysis a high likelihood of the issues being resolved within a defined extension period; or

c. Proceed to a compliance investigation if issues have not been substantially addressed or if there is otherwise particular value for accountability, institutional learning, or further remedial action.

103. In any case, CAO will issue, and circulate for information, a report summarizing the actions taken and outcomes of the deferral to the Boards, the President, Management, and the Complainant. CAO will also publish this report on its website.

Circulation and disclosure of the appraisal report

104. Once CAO concludes an appraisal, it will circulate, for information, the appraisal report to the Board, the President, Management, and the Client. In cases where CAO is responding to a complaint, CAO will also circulate the report to the Complainant.

105. At the same time, CAO will post a notice on its website stating that it has made the appraisal decision.

106. Following the circulation of the appraisal report and lapse of any period for Board review (see paragraphs 108 and 110–111 below), CAO will publish the appraisal report. CAO will also publish the Management response, a response from the Client (if any), as well as any request from IFC/MIGA for Board review and the outcome of that Board review (if any).

Request for Board review of a decision to investigate

107. In exceptional circumstances, where Management believes any of the technical review criteria below have not been met, Management, represented by the Managing Director and Executive Vice President of IFC or the Executive Vice President of MIGA, may request the Board to review the CAO DG's decision to investigate. A review may only be requested following an appraisal report that results in a decision to investigate. It does not apply to the deferral process set out in paragraphs 98–103 above.

108. Management will have 10 Business Days from the date of circulation of the appraisal report to request a Board review. The review request will be based on the technical criteria outlined below and not raise any issue that is within the discretion of the CAO DG. The request for review will be circulated to the Board for decision and to CAO and the President for information. Upon receipt of a review request, CAO will post a notice on its website stating that its decision to investigate is subject to the Board's review but will not publish the review request until completion of the Board's review process.

Board review process

109. The Board will review the decision to investigate based solely on the technical criteria set out below. The Board will not make a judgment on the merits of the complaint or on considerations that require the exercise of discretion by the CAO DG under this Policy.

Technical review criteria:

a. If the complaint was transferred from Dispute Resolution, does the CAO compliance appraisal report affirm that (1) CAO initiated the transfer to Compliance on the basis of explicit consent of one (or more) Complainant(s), or (2) CAO was aware of concerns regarding Threats and Reprisals in relation to the complaint? (See paragraph 71.)

b. Does the CAO compliance appraisal report include consideration of whether there are preliminary indications of Harm or potential Harm? (See paragraph 91 above.)

c. Does the CAO compliance appraisal report include consideration of whether there are preliminary indications that IFC/MIGA may not have complied with its E&S Policies? (See paragraph 91 above.)

d. Does the CAO compliance appraisal report include consideration of whether the alleged Harm is plausibly linked to the potential non-compliance? (See paragraph 91 above.)

e. Does the CAO compliance appraisal report include consideration of the relevance of any judicial or non-judicial proceeding in relation to the subject matter of the complaint? (See paragraph 92 above.)

f. In relation to a Project where an IFC/MIGA Exit has occurred prior to CAO completing its compliance appraisal, does the CAO compliance appraisal report include consideration of whether an investigation would provide particular value in terms of accountability, learning, or remedial action despite the IFC/MIGA Exit? (See paragraph 92 above.)

g. If CAO has previously conducted a compliance investigation in relation to the Project or Sub-Project in question, does the CAO compliance appraisal report include consideration of whether the complaint raises new issues or new evidence is available? (See paragraph 93 above.)

110. The Board will have 10 Business Days to consider a decision to investigate in response to a request for review. During this period, the Board may decide to affirm or overturn the CAO DG's decision to investigate. The Board will not have any editorial input into the CAO compliance appraisal report.

111. If the Board does not make a decision within 10 Business Days, the CAO DG's decision will be affirmed unless the Board decides to extend such review for a determined period.

COMPLIANCE INVESTIGATION PROCESS

Definitions and approach to compliance investigations

112. A compliance investigation determines whether IFC/MIGA has complied with its E&S Policies and whether there is Harm related to any IFC/MIGA non-compliance, following a systematic and objective process of obtaining and evaluating evidence. In determining whether IFC/MIGA has complied with its E&S Policies, CAO will include, where appropriate, an assessment of whether IFC/MIGA has deviated in a material way from relevant directives and procedures.

113. Where CAO finds non-compliance and related Harm, CAO makes recommendations for IFC/MIGA to consider when developing a Management Action Plan (MAP). Recommendations may relate to the remediation of Project- or Sub-Project-level non-compliance and related Harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances.

114. A compliance investigation does not make non-compliance findings in relation to a Project or Sub-Project. However, in making findings regarding Harm and whether any Harm is related to IFC/MIGA non-compliance with its E&S Policies, CAO will assess IFC/MIGA's review and supervision of its E&S Requirements at the Project or Sub-Project level, and consider Project- or Sub-Project-level environmental and social performance. Where relevant in accordance with applicable IFC/MIGA E&S Requirements that refer to national law, CAO will also consider how IFC/MIGA reviewed and supervised the Project's compliance with applicable national law.

115. CAO will base the compliance investigation on a review of documents, interviews, observation of activities and conditions, and other appropriate means.

116. CAO will assess whether there is evidence that IFC/MIGA applied relevant E&S Requirements considering the sources of information available at the time the decisions were made. CAO will not make findings and conclusions with the benefit of hindsight.

117. CAO follows a non-adversarial model. In undertaking analyses and making conclusions, CAO will systematically and objectively consider such facts, circumstances, information, and evidence as may be available to it from documents, interviews, statements, reports, correspondence, and other sources as CAO determines relevant. Sufficient, relevant evidence is required to afford a reasonable basis for CAO's compliance findings and conclusions.

Terms of reference for compliance investigations

118. CAO will publicly disclose terms of reference for the compliance investigation. The terms of reference will specify:

- **a.** The objectives and scope of the investigation;
- **b.** Any limitations on the scope of the investigation that may be appropriate, considering, among others, issues closed at the appraisal stage, the presence of concurrent judicial proceedings, or an IFC/MIGA Exit;
- **c.** The approach and method of investigation, and specific consultant qualifications; and
- **d.** A schedule for the investigation tasks, timeframe, and reporting requirements. This schedule will include deadlines for the submission of information by IFC/MIGA to inform the compliance investigation process.

119. In preparing the terms of reference for any compliance investigation involving more than one Project, CAO will consult with IFC/MIGA.

Compliance investigation report

120. CAO will prepare the compliance investigation report, which will at a minimum include:

- **a.** The investigation findings with respect to compliance, non-compliance, and any related Harm.
- **b.** Context, evidence, and reasoning to support CAO's findings and conclusions regarding the underlying causes of any non-compliance identified.
- **c.** Recommendations for IFC/MIGA to consider in the development of a MAP relating to the remediation of Project- or Sub-Project-level non-compliance and related Harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances. In case of a Project where the IFC/MIGA Exit has occurred, recommendations will take into account the implications of such an IFC/MIGA Exit.

121. CAO will circulate a draft investigation report within one year of the disclosure of the appraisal report.

Factual review and comment

122. CAO will circulate the draft report to Management for factual review and comment. Management may share the draft report with the Client or Sub-Client on the condition that appropriate measures are in place to safeguard the confidentiality of the draft report prior to disclosure.

123. IFC/MIGA will have 20 Business Days from the receipt of the draft report to provide written comments. IFC/MIGA may take into account feedback from the Client or Sub-Client when preparing written comments.

124. CAO will provide the Complainant with the opportunity to undertake factual review and comment on the draft investigation report concurrently with IFC/MIGA, on the condition that appropriate measures are in place to safeguard the confidentiality of the draft report prior to public disclosure.

125. At a minimum, the Complainant will be provided a draft table of findings for factual review and comment and as a basis for information to inform subsequent consultation on any MAP.

126. Upon completion of the factual review and comment phase, no new information or arguments will be introduced in relation to the CAO compliance process.

Finalizing an investigation report

127. After considering the comments from IFC/MIGA and the Complainant on the consultation draft, CAO will finalize the compliance investigation report in 20 Business Days.

128. The final investigation report will be submitted to Management and circulated to the Board for information. A final table of findings and the final investigation report may be shared with the Complainant and Client or Sub-Client for the purpose of consultation while preparing the MAP, on the condition that appropriate measures are in place to safeguard confidentiality of the findings prior to public disclosure.

129. A notice will be posted on CAO's website informing the public that CAO has completed its compliance investigation.

Management response, action plan, and clearance for disclosure

130. Within 50 Business Days of receiving CAO's compliance investigation report and findings, Management will be required to submit a report

(Management Report) to the Board for consideration, stating the actions proposed in response to CAO's findings.

131. For the purpose of addressing CAO findings of non-compliance and related Harm, if any, the Management Report will include, for Board approval, a MAP comprising time-bound remedial actions proposed by Management.

132. The Management Report should also include a reasoned response to CAO's findings or recommendations regarding non-compliance or related Harm that IFC/MIGA is unable to address in the MAP.

133. While the MAP is the responsibility of Management, Management may incorporate input from relevant parties.

134. During the preparation of the MAP, Management will be required to consult the Complainant and the Client. Actions that involve the Client or Sub-Client will be agreed with the Client prior to inclusion in the MAP.

135. CAO will submit comments on the proposed MAP to the Board. The Complainant may submit to CAO a statement on the proposed MAP and the adequacy of consultations for circulation to the Board.

136. To support institutional learning, IFC/MIGA may provide measures in the MAP to avoid recurrence of non-compliance and improve institutional performance in other Projects.

137. The Board will not have any editorial input regarding the content of a compliance investigation report but may take the opportunity to discuss the investigation findings with CAO and Management.

138. Once the Board approves the MAP, CAO's investigation report, the Management Report, and the MAP will be published on CAO's website.

COMPLIANCE MONITORING

Approach to monitoring

139. After the Board has approved a MAP, CAO will monitor its implementation.

140. The scope of CAO's compliance monitoring will be the corrective actions approved as part of the MAP. Monitoring will verify the effective implementation of the actions set out in the MAP.

141. CAO compliance monitoring will not consider non-compliance findings for which there is no corresponding corrective action in the MAP.

Reporting during monitoring

142. IFC/MIGA will be responsible for supervising implementation of the MAP and will submit progress reports to the Board on the implementation of the MAP at such intervals as proposed by Management or otherwise approved by the Board. Every progress report will summarize the implementation status of the MAP in the period covered by the report, including actions completed, actions in ongoing implementation, and upcoming actions based on timelines included in the MAP. It also may include information on engagements undertaken during the reported period. CAO will publish IFC /MIGA progress reports on its website and incorporate these reports into its annual public monitoring report.

143. As requested by Management, CAO, or the Board, CAO and Management will provide a briefing in the format requested by Executive Directors or the Board on progress made in the implementation of remedial measures in MAPs, including Project- or Sub-Project-level actions and IFC/MIGA systemic responses to CAO compliance findings.

144. The Board may consider options on how to strengthen the implementation of measures in the MAP, if necessary, taking into account Management progress reports and CAO monitoring reports.

Closure of compliance investigations

145. CAO will close the compliance monitoring process when:

a. CAO determines that substantive commitments as set out in the MAP have been effectively fulfilled; or

b. Following engagement with Management and/or the Board, not all substantive commitments in the MAP have been effectively fulfilled, and CAO determines that there is no reasonable expectation of further action to address its Project or Sub-Project-level non-compliance findings.

146. In either case, CAO will prepare a final monitoring and closure report and circulate it for information to the Board, the President, IFC/MIGA, the Complainant, and the Client before making it public.

CAO Compliance Process

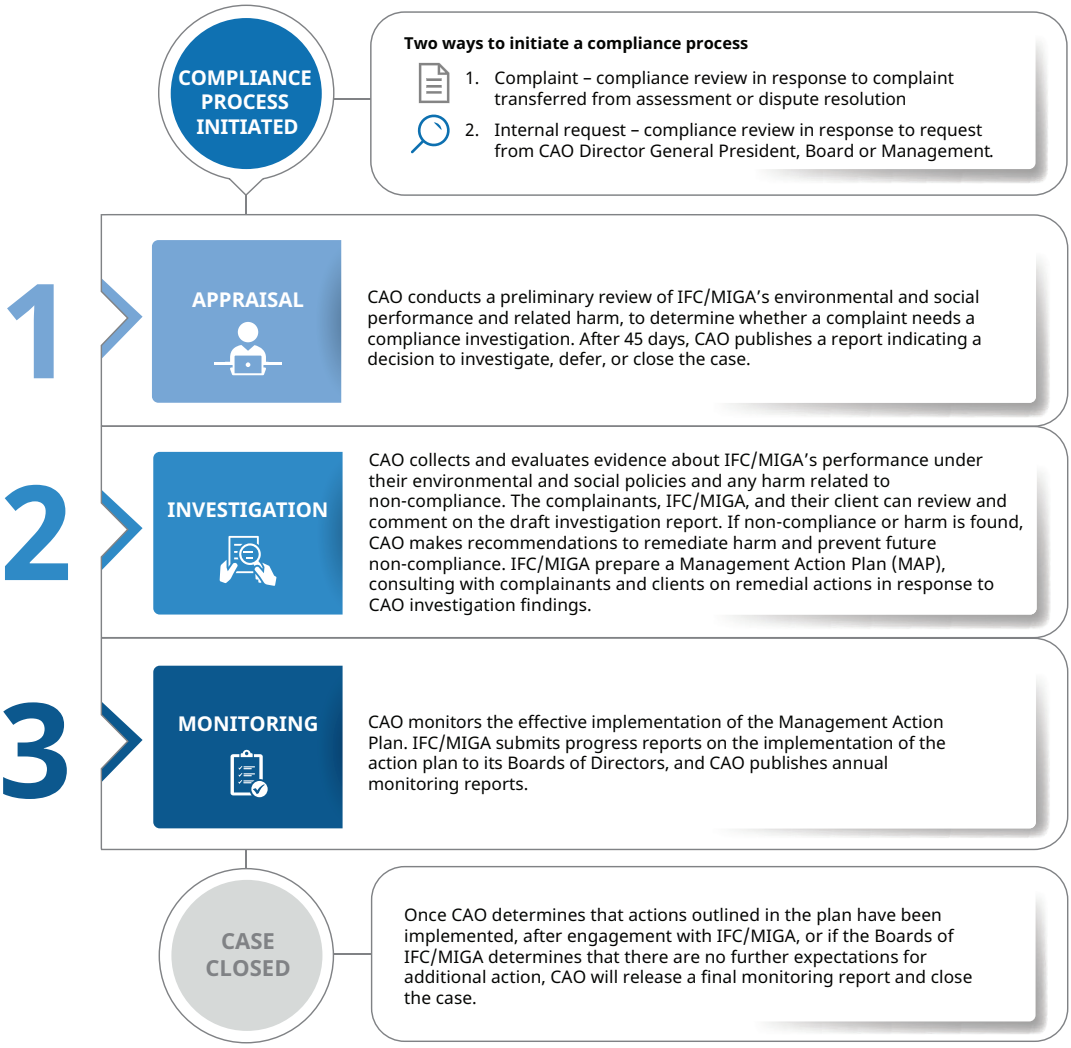


Photo: Felix Davey/CAO

SECTION XI. ADVISORY

PURPOSE

147. CAO's Advisory function provides advice to IFC/MIGA and the Boards with the purpose of improving IFC/MIGA systemic performance on environmental and social sustainability and reducing the risk of harm to people and the environment. CAO's advisory work provides insights and recommendations on broader environmental and social issues relevant to IFC's and MIGA's work by drawing on CAO experience addressing complaints and good international practice.

APPROACH

148. CAO's Advisory function is guided by the following principles:

- **a.** CAO preserves its independence and impartiality by not giving advice on specific Projects.
- **b.** CAO provides advice on broader IFC/MIGA environmental and social policies, processes and approaches, guidance documents, strategic issues, trends, and systemic concerns.
- **c.** CAO advice draws from experience gained through its dispute resolution and compliance work.
- **d.** CAO seeks to carry out its advisory work in a collaborative manner with IFC/MIGA and other actors as appropriate.

ADVISORY PROCESS

Requests for advice

149. In addition to CAO-initiated advisory work, the Board(s) or Management can request CAO advice. CAO will review any request for advice to ensure it only undertakes advisory work consistent with its mandate and principles.

Developing advisory work

150. To enhance the impact of its advisory work, CAO will seek to identify ways of working collaboratively with IFC/MIGA and other actors as appropriate when developing advisory work, while maintaining its

independence. At a minimum, CAO informs IFC/MIGA when it initiates advisory work and when it responds to a request for advice and consults IFC/MIGA on the scope of advice and proposed process.

151. CAO delivers advisory work through various formats, including written reports, interactive tools, and in-person learning. CAO will not provide Project-specific advice.

Information disclosure

152. While CAO seeks to maximize disclosure of its advisory work, it may provide non-public advice to maximize uptake of advice on issues that are part of internal World Bank Group deliberative processes.

Monitoring and follow-up

153. CAO will systematically assess the impact of its advisory work as part of its monitoring and evaluation activities and include advisory work in its reporting to the Boards as part of its Management Action Tracking Record.

154. CAO will carry out periodic external reviews of its advisory work.

CAO Case-Handling Process

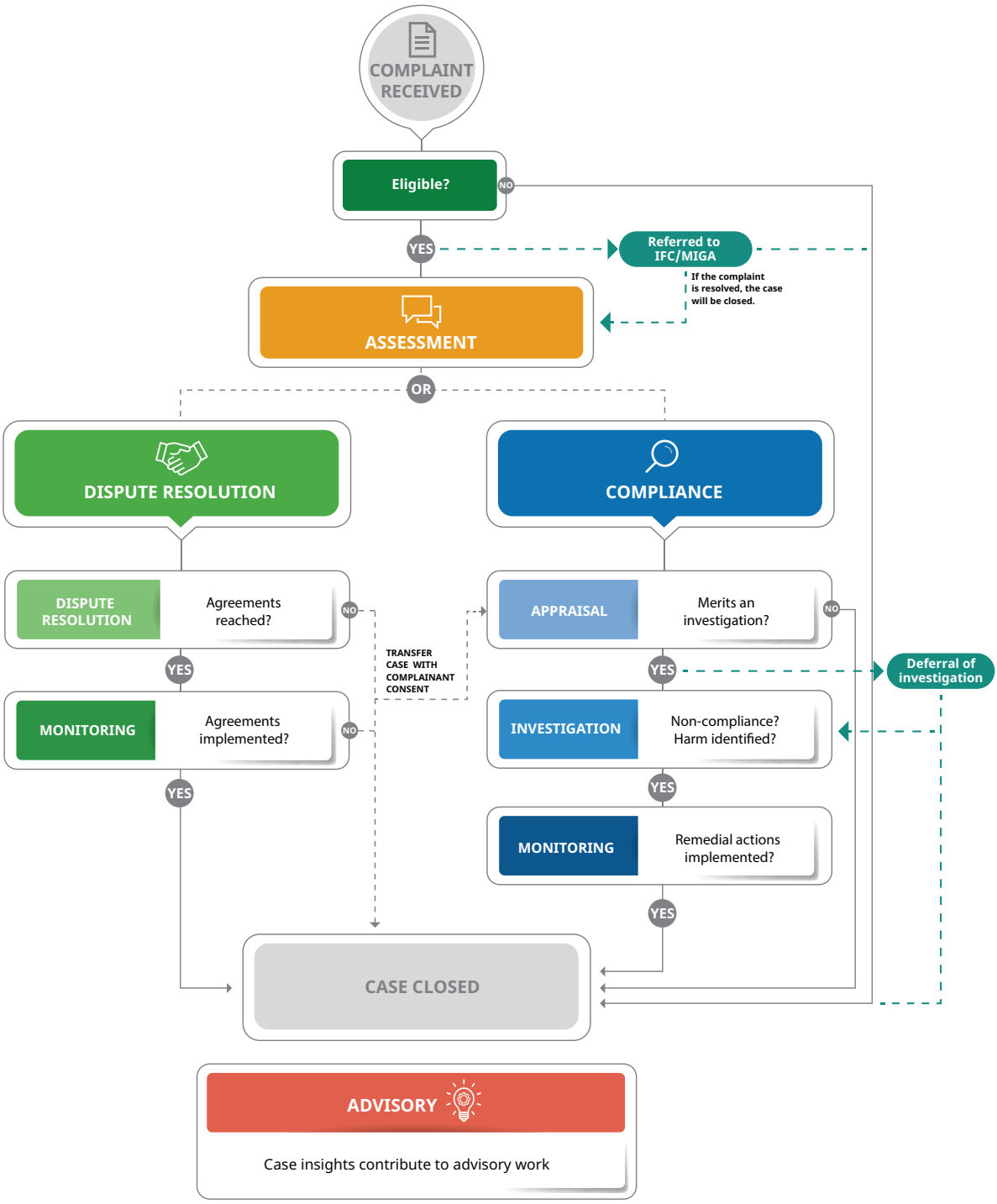


Photo: Rodrig Mbock/CAO

SECTION XII. THREATS & REPRISALS

155. CAO, IFC, and MIGA take Threats and Reprisals against Complainants or any other persons involved in a CAO process or activity seriously and recognize that the concerns any such persons may have for their safety and well-being, and that of their families, can prevent them from submitting a complaint or otherwise engaging fully with CAO.

156. The following principles guide CAO in its approach to Threats and Reprisals:

- **a.** Disputes should be resolved through non-violent and peaceful means that promote the dignity of people and respect the rights of all;
- **b.** CAO should safeguard individual identities where requested, including by keeping information confidential that could, directly or indirectly, reveal identities;
- **c.** CAO should obtain the informed consent of the concerned person before taking action in relation to Threats and Reprisals, and any such action should be developed in a participatory manner; and
- **d.** CAO should act with the intent that people are not harmed due to cooperating in the CAO process or activities.

157. To address concerns and risks arising from Threats and Reprisals related to its processes or activities, CAO will: (1) regularly assess the risk context of any complaint throughout a CAO process or activity; (2) if requested by any person who raises concerns regarding Threats and Reprisals, work closely with the concerned person to identify preventive measures adapted to the specific circumstances, particularly where security concerns exist, and plan possible responses with the concerned person; and (3) if security threats or incidents occur or CAO becomes aware of such a threat in the context of a CAO process or activity, CAO will make every effort to support the safety and well-being of any concerned person by following an appropriate course of action discussed and agreed upon with the concerned person.

158. While CAO will seek to fulfill its mandate under this Policy in a manner that maximizes its ability to respond appropriately to Threats and Reprisals, CAO is not an enforcement body or entity. It does not have the direct ability to physically protect or otherwise safeguard Complainants or any other concerned persons from the possible consequences of engaging in a CAO process or activity or cooperating with CAO.

159. CAO, IFC, and MIGA will coordinate, as appropriate and within the scope of their respective roles and mandates as described in their respective then-current position statement or policy, on measures to assess, prevent, and respond to concerns of Threats and Reprisals stemming from CAO processes and activities.

Photo: Felix Davey/CAO

SECTION XIII. OUTREACH AND COMMUNICATIONS

160. CAO's accessibility and the effective implementation of its mandate under this Policy depend on the ability of CAO to engage effectively with its stakeholders. CAO takes a proactive approach to promote awareness and understanding of this Policy and the purpose, mandate, functions, and activities of CAO as the independent recourse and accountability mechanism of IFC/MIGA. CAO's outreach activities and communications are guided by confidentiality considerations relevant to Complainants and other stakeholders, including measures designed to address the risk of Threats and Reprisals.

OUTREACH AND TRAINING

161. CAO conducts outreach to external stakeholders to enhance its accessibility, including cooperation with the independent accountability mechanisms of other organizations, as relevant. CAO disseminates information about its mandate and work in IFC/MIGA member countries, including through IFC/MIGA country offices and regional hubs. CAO also engages with Project-affected people and their representatives upon request. Through these efforts, CAO aims to respond to local constraints that may impede people's ability to access CAO services or participate in a CAO process.

162. CAO will provide training to IFC/MIGA staff and external stakeholders on the implementation of this Policy. CAO will tailor the training to specific needs, based on direct requests or feedback, or in relation to cases.

PUBLIC REPORTS AND INFORMATION MATERIALS

163. While CAO's working language is English, CAO seeks to make reports and communication materials available in relevant local languages to promote accessibility. CAO issues public information materials in the official languages of the World Bank Group (Arabic, Chinese [Mandarin], English, French, Russian, Spanish, and Portuguese), and additional languages where deemed necessary. CAO makes available these materials in electronic and hard copy and by other culturally appropriate means.

164. Complainants may submit a complaint to CAO in any language, and CAO's correspondence and engagement with the Complainant and its representatives will be in both the language of the complaint and English.

165. CAO publishes all CAO reports in English, including case reports, advisory reports, and annual reports. All publicly disclosed reports on casework—including assessment reports, dispute resolution reports, and compliance reports—will be translated into the Complainant's local language. When deemed necessary, CAO will translate its reports into additional local languages and present them in a culturally appropriate manner.

166. CAO may post a public statement on its website at different stages of the case handling process to clarify its mandate and process. CAO may issue joint statements agreed by the Parties, and joint statements by CAO and IFC/MIGA, as appropriate.

167. CAO will submit an annual report to the Boards concerning its activities. CAO publishes the annual report and periodic newsletters on its website.

IFC/MIGA INFORMATION DISCLOSURES ABOUT CAO

168. To help make CAO known to IFC/MIGA staff, Clients, and Project-affected people, IFC/MIGA will:

- **a.** Provide accessible information about CAO on their websites and in their annual reports;
- **b.** Include in the relevant IFC/MIGA Project disclosure reference to any applicable grievance mechanisms, including CAO;
- **c.** Work with Clients to disseminate information at the Project level about CAO and its availability as a recourse in case other mechanisms for dealing with harmful Project impacts are not successful;
- **d.** Include information pertaining to CAO as relevant in the appropriate IFC/MIGA Project documentation; and
- **e.** Include information about CAO in the induction and training of IFC/MIGA staff.

Photo: Rodrig Mbock/CAO

SECTION XIV. COOPERATION WITH OTHER INDEPENDENT ACCOUNTABILITY MECHANISMS (IAMs)

169. If CAO is aware that other organizations with IAMs have financed or guaranteed a Project that is the subject of a complaint to CAO, CAO will notify those IAMs of the existence of the complaint, subject to the Complainant's consent to this notice and applicable provisions to protect confidentiality.

170. If CAO engages with a complaint that overlaps with the jurisdiction of other organizations' IAMs and where the complaints involve the same or substantially similar issues, CAO will use best efforts to collaborate with such IAMs to ensure that the complaint is handled fairly and efficiently, avoiding duplication of efforts, consistent with this Policy. At all times, the cooperation will be conducted in accordance with the IAMs' respective mandates, policies, and procedures, including requirements of confidentiality and disclosure of information.

171. CAO may also cooperate with other IAMs on other relevant activities, including outreach, communications, advisory, and training.

SECTION XV. REVIEW OF POLICY

172. The Boards will initiate a review of this Policy no later than five years after it becomes effective.

SECTION XVI. MISCELLANEOUS

173. This Policy will become effective on July 1, 2021.

174. This Policy will apply to any complaint submitted to CAO on or after the date on which this Policy became effective and supersedes and replaces in its entirety the CAO Operational Guidelines and CAO Terms of Reference.

175. CAO will develop and make public procedures for the transition of ongoing CAO cases to this Policy. IFC/MIGA will make necessary transitional arrangements for the application of the provisions of this Policy, including the introduction of contractual requirements as set forth in the Access to Information section.

176. Nothing in this Policy in any way constitutes or implies a waiver, termination, renunciation, or modification by IFC or MIGA of any privilege, immunity, or exemption of IFC or MIGA under the IFC Articles of Agreement, the MIGA Convention, or other governing instruments or international conventions, or under any applicable law.

177. For purposes of this Policy, references to the Sustainability Framework (or any component thereof), the IFC Articles of Agreement, or the MIGA Convention will be deemed to refer to such policy, agreement, or convention as amended from time to time.

WORLD BANK GROUP

IFC International Finance Corporation | MIGA Multilateral Investment Guarantee Agency

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