

Terms of Reference

Microfinance, Land Rights and Indigenous Peoples Expert

Compliance Investigation of IFC’s Environmental and Social Performance in relation to Exposure to Six Financial Institutions in Cambodia (Aceda, Amret, Hattha Bank, Prasac, LOLC, and Sathapana)

IFC Project Numbers: #21856, #27827, #31467, #34748, #38609, #39167, #41294, #42480, #44211, #44231, #44742, #44882, #45535

1. About CAO and the Compliance Function

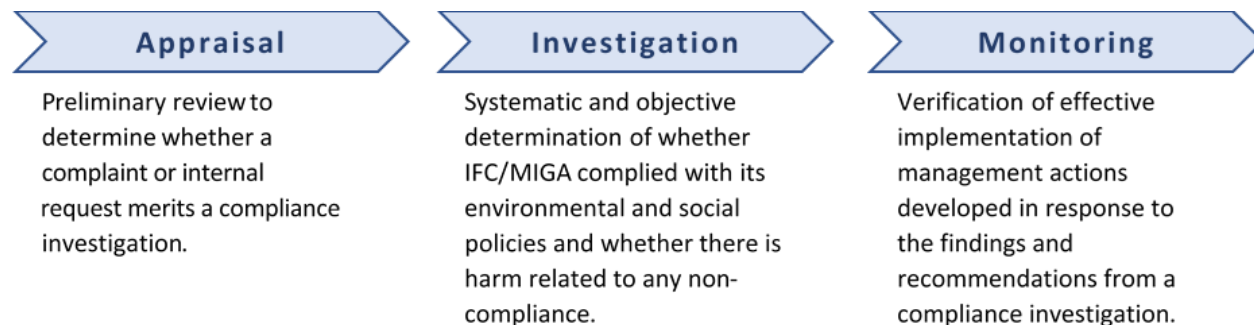
The Office of the Compliance Advisor Ombudsman (CAO) is an independent recourse and accountability mechanism for people and communities affected by projects financed by the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). CAO works to address complaints fairly, objectively, and constructively while enhancing the social and environmental outcomes of IFC and MIGA projects and fostering public accountability and learning at these institutions.

CAO’s independence and impartiality are essential to fostering the trust and confidence of stakeholders involved in complaint processes. CAO is independent of IFC and MIGA management and reports directly to the IFC and MIGA Boards.

CAO carries out its work in accordance with the IFC/MIGA Independent Accountability Mechanism (CAO) Policy (“the CAO Policy”). Its three functions are shown below. For more information, see www.cao-ombudsman.org.

Dispute Resolution	Compliance	Advisory
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.	CAO carries out reviews of IFC/MIGA compliance with the E&S policies, assesses related harm, and recommends remedial actions to address non-compliance and harm where appropriate.	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.

CAO's compliance function follows a three-step approach:



2. Scope of work

The WBG has provided extensive support to Cambodia's financial sector through technical assistance and direct investments, particularly for the provision of microfinance and the development of financial infrastructure. IFC specifically has made significant investments in several microfinance institutions. In February 2022, CAO received the complaint in relation to the lending and collection practices of Acleda, Amret, Hattha Bank, LOLC, Prasac, and Sathapana Bank in Cambodia.¹

IFC has direct investments in Acleda, Amret and Hattha Bank, as well as indirect financial exposure to Prasac, LOLC, and Sathapana through investments in the Microfinance Enhancement Facility (MEF), the Microfinance Initiative for Asia Debt Fund (MIFA), North Haven Thai (a private equity company), and Advans S.A. (Amret's parent company). In total, this case involves 13 IFC projects, that support lending programs for micro, small, and medium enterprises (MSME) which were active at the time the complaint was filed with CAO, and which link IFC to these six financial institutions in Cambodia.²

The complainants argue that IFC has repeatedly failed to conduct adequate environmental and social (E&S) due diligence and supervision on its clients who are microfinance providers. They allege the clients' Environmental and Social Management Systems (ESMS) are "clearly inadequate to address the predatory and deceptive loan practices, irresponsible lending [...], and coercion and threats from loan officers" that are common practice in Cambodia.

Specifically, the complainants allege that they have lost their land and livelihoods because microfinance lenders routinely request them to put up their land as collateral for the loans to be approved, including indigenous communal land, and then force them into premature sales of the

¹ See a redacted version of the complaint, annexed to the [CAO Compliance Appraisal Report](#), Annex 4.

² IFC Disclosure website: Acleda: projects [#44882](#) and [#42480](#). Amret: projects [#34748](#), [#44231](#) and [#41294](#). Hattha Bank: projects [#39167](#), [#44211](#), [#45535](#) and [#44742](#). MEF project [#27827](#), MIFA project [#31467](#), North Haven Thai project [#38609](#), and Advans S.A. project [#21856](#).

land for collection. Moreover, to repay increasing debts, they have also sold other sources of income, such as tools, reduced their food intake, taken their children out of school, and been forced to migrate for work. The complainants state that IFC was aware of publicly available information regarding widespread social harms and inadequate consumer protections in Cambodia's microfinance sector but continued to approve additional financing in the sector without additional requirements. They argue that IFC is not properly supervising the business activities of its microfinance clients on the grounds that microfinance lenders are not required to screen their lending activities for E&S risks and resulting harms to borrowers. They consider this particularly significant since microfinance borrowers are likely to be part of vulnerable populations and thus require more protection and monitoring to ensure that IFC projects do not have harmful social impacts. The complainants have also expressed a serious fear of reprisals for speaking out against the microfinance industry and have asked CAO to keep their identities confidential.

As a result of the complaint received, CAO completed a compliance appraisal of IFC's investments in June 2023.³ As established in the Compliance Appraisal Report, CAO will conduct a compliance investigation of IFC's investments in Acleda, Amret, Hattha Bank, Advans, North Haven Thai, MEF, and MIFA, and indirect investments in Prasac, LOLC, and Sathapana, through MEF and MIFA. The investigation seeks to determine whether IFC complied with its E&S Policies relevant to the investments and whether there is harm related to any IFC non-compliance. In determining whether IFC has complied with its E&S Policies, CAO will include, where appropriate, an assessment of whether IFC deviated in a material way from relevant directives and procedures.

Relevant to the issues raised in the complaint, the objective of the investigation is to determine:

1. Whether IFC has complied with its E&S Policies, including:
 - a. Whether IFC conducted a pre-investment E&S review of its investments in Acleda, Amret, Hattha Bank, Advans, North Haven Thai, MEF, and MIFA as required by the Sustainability Policy that was commensurate to the risks and impacts of these investments on the MSME borrowers (sub-clients in these investments); and
 - b. Whether IFC put in place contractual provisions requiring its clients named above to meet Cambodian national law, the IFC Exclusion List and the IFC Performance Standards, as relevant to each investment, regarding risks and impacts on the MSME borrowers; and
 - c. Whether IFC has supervised its investments in Acleda, Amret, Hattha Bank, Advans, North Haven Thai, MEF, and MIFA to ensure they comply with the requirements of Sustainability Policy, the Performance Standards, the IFC Exclusion List, and

³ CAO, Compliance Appraisal of Complaint Regarding IFC's Exposure to six Microfinance Institutions in Cambodia (Acleda, Amret, Hattha Bank, Prasac, LOLC, and Sathapana). Available at: https://www.cao-ombudsman.org/sites/default/files/downloads/CAO%20Compliance%20Appraisal-Cambodia%20FI04%20FINAL-%28For%20publication%29-ENG_0.pdf

national law, as relevant to each investment, regarding risks and impacts on the MSME borrowers.

2. Whether the harms and potential harms raised by the complainants are related to any IFC non-compliance.⁴

In considering findings regarding harm and whether any harm is related to IFC non-compliance, CAO will assess IFC's review and supervision of its E&S requirements under the Sustainability Policy and the Access to Information Policy. CAO will consider project E&S performance including in relation to the application of the Performance Standard 1 (Assessment and Management of Environmental and Social Risks and Impacts), Performance Standard 7 (Indigenous Peoples), and the Exclusion List as relevant to the issues raised in the complaint.

The ***Terms of Reference for the investigation*** are available in CAO's case web page [here](#).

The external expert will assist CAO with the scope of the compliance investigation. Given the issues this investigation will consider, CAO expects to contract one or more external experts depending on the needs identified and the candidates' skills set.

Objective: CAO seeks an expert input on IFC's application of its Sustainability Framework, including the Sustainability Policy, the Performance Standards and the Exclusion List in relation to the above mentioned financial intermediaries.

The external expert will be required to:

- Review project-related documentation;
- Prepare detailed investigation questions;
- Participate in meetings and interviews (either in person or by conference call) with IFC project team members, complainants, IFC's client, and other relevant stakeholders;
- Participate in a field mission in Cambodia to meet with the complainants, and other stakeholders;
- Prepare a report on analysis and findings based on documentation review, interviews, and field mission;
- Provide written input for the framework and findings of the draft investigation report;
- Prepare a presentation on findings for CAO and IFC;
- Review and provide written comments on the draft and final reports; and
- Other tasks as agreed with the task team leader.

At the judgment of the task team leader this work may involve field visits to complainants' communities in Cambodia, as to the offices and/or branches of Acleda, Amret, Hattha Bank, LOLC, Prasac, and Sathapana Bank., and other relevant stakeholders.

CAO Task Team Leader is Mariana Clemente Fabrega (email:

mclementefabrega@worldbankgroup.org)

3. Preferred qualifications and experience:

For this compliance investigation, CAO considers the following qualifications as necessary:

- Significant expertise and experience in microfinance investments, responsible finance, and financial consumer protection standards;
- Significant expertise in land rights and Indigenous Peoples land issues in Cambodia;
- Significant expertise in socio-economic assessments;
- Knowledge of ethnic groups and indigenous peoples in Cambodia;
- Knowledge of the regulatory framework, practices, and procedures of microfinance institutions in Cambodia;
- Knowledge of IFC's E&S policies, standards, and procedures, particularly the Sustainability Policy, Performance Standard 1 (Assessment and Management of Environmental and Social Risks and Impacts), Performance Standard 7 (Indigenous Peoples), the IFC Exclusion List, and the Access to Information Policy;
- Experience and knowledge relevant to conducting compliance investigations;
- Experience in managing, addressing and considering risks of threats and reprisals to complainants.
- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts; and
- Fluency in English. Knowledge of Khmer desirable.

4. Timeline

Estimated level of effort is 40 days.

Timeline for this project is September 2023 until December 2024.