



October 21, 2021  
Office of the Compliance Advisor Ombudsman (CAO)

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## Terms of Reference for Compliance Investigation of IFC

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*IFC Investment in Bridge International Academies-04  
(IFC Project # 32171, #38733, #39170 and #39224)  
Global*

### About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is an independent recourse and accountability mechanism that receives complaints from communities and persons who may be affected by the projects that the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) support. The CAO reports directly to the Boards of IFC and MIGA (“the Board”) and is fully independent of IFC/MIGA management.

CAO carries out its work in accordance with the IFC/MIGA Independent Accountability Mechanism (CAO) Policy (“[the CAO Policy](#)”).

Through the exercise of its complementary dispute resolution, compliance, and advisory functions, CAO’s mandate is to:

- Facilitate the resolution of complaints from people who may be affected by IFC/MIGA projects or sub-projects in a manner that is fair, objective, and constructive;
- Enhance the environmental and social outcomes of projects in which those institutions play a role; and
- 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.

For more information about CAO, please see [www.cao-ombudsman.org](http://www.cao-ombudsman.org).

This document contains the terms of reference for the CAO's investigation of Bridge International Academies-04, as required by paragraphs 96 and 118 of the CAO Policy.

## About CAO's Compliance Function

*"The purpose of the CAO compliance function is to carry out reviews of IFC/MIGA's compliance with E&S [Environmental and Social] Policies, assess related Harm, and recommend remedial actions where appropriate."*<sup>1</sup> The compliance function does not evaluate the adequacy or suitability of E&S Policies, nor does it make findings in relation to the compliance of a project, sub-project, client, or sub-client with the IFC Performance Standards. However, in carrying out its role, the CAO compliance function 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.<sup>2</sup>

CAO's compliance function has three phases:

1. A **compliance appraisal**, which is a preliminary review to determine whether a complaint or internal request merits a compliance investigation.
2. Where warranted, a **compliance investigation**, which is a systematic and objective review to determine whether IFC/MIGA complied with its E&S policies, and whether there is harm related to any IFC/MIGA non-compliance. On completion of a compliance investigation leading to findings of non-compliance and related harm, CAO makes recommendations for IFC/MIGA to consider when preparing its Management Action Plan (MAP). IFC/MIGA submits the MAP to the Board for approval.
3. Where there is an approved MAP, CAO will conduct a **compliance monitoring** process and report on the effective implementation of any corrective measures included in the MAP.

## The Investment

NewGlobe Schools, Inc. (NGS) is a Delaware corporation. Bridge International Academies ("Bridge" or the "company") is the wholly owned Kenyan subsidiary of NGS. IFC made a preferred equity investment of US\$10 million in NGS in January 2014 (Project #32171). IFC made subsequent investments in NGS in July and November 2016 (Project #38733, #39170 and #39224). IFC's total equity investment as of November 2020 was US\$13.5 million.

IFC disclosures note that Bridge aims to provide quality education to children from families earning less than US\$2 per person per day.<sup>3</sup> IFC reports that Bridge builds schools on greenfield sites located in high-density, low-income communities. IFC describes the company's model as

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<sup>1</sup> CAO Policy, Sec. X, para. 76.

<sup>2</sup> CAO Policy, Sec. X, para. 77.

<sup>3</sup> IFC Project Information Portal, "Bridge International Academies," Summary of Investment Information (SII), Expected Development Impact, October 30, 2013, available at: <https://disclosures.ifc.org/#/projectDetail/SII/32171>.

leveraging “centralized curriculum development, teacher training, and a comprehensive technology platform to provide quality education at an affordable cost.”<sup>4</sup> IFC anticipated that the project would promote access to basic education, promote affordability, improve quality and accountability, create jobs and improve student nutrition.<sup>5</sup> Further, IFC anticipated that the project would act as a consolidator in the sector and provide a “demonstration effect” that would, if successful, attract other companies to employ similar strategies.<sup>6</sup>

IFC’s investment was intended to support the expansion of Bridge’s network of schools in Kenya and its entrance into three new markets (the “project”).<sup>7</sup> At the time of IFC’s investment, Bridge owned 211 schools in Kenya serving over 57,000 pre-primary and primary level students (aged from 3-14 years old).<sup>8</sup> In 2020 the Company owned and operated 297 schools in Kenya, 47 schools in Uganda and 63 schools in Nigeria.<sup>9</sup> In addition, the client reported that it partnered with governments to operate 6 schools in India,<sup>10</sup> 170 schools in Liberia,<sup>11</sup> and to support teacher training of 12,000 teachers in 578 schools in Nigeria.<sup>12</sup> IFC classified the investment as Category B, indicating that the investment’s potential adverse environmental and social risks were limited, largely reversible, and may be readily mitigated.<sup>13</sup>

## CAO VP Triggered Appraisal

In April 2018, CAO received a complaint from the East Africa Centre for Human Rights, a Kenyan NGO, on behalf of current and former parents and teachers regarding IFC’s investment in Bridge in Kenya (the Bridge-01 case). The complaint raised concerns about the Bridge’s compliance with Kenyan national curriculum requirements, IFC’s Performance Standards in terms of health and safety, and labor conditions. The complaint also cited concerns about economic discrimination, lack of parental inclusion, and transparency. The Bridge-01 complaint was transferred to CAO’s compliance function for appraisal and CAO initiated an investigation in October 2019, which is ongoing.

In the course of the Bridge-01 investigation, CAO staff and experts traveled to Nairobi in February 2020. The investigation team spoke to community members who raised concerns regarding several instances of alleged child sexual abuse at Bridge schools by school teachers. In

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<sup>4</sup> IFC Project Information Portal, “Bridge International Academies,” Environmental and Social Review Summary (ESRS), Project Description, October 30, 2013, available at: <https://disclosures.ifc.org/#/projectDetail/ESRS/32171>.

<sup>5</sup> IFC Project Information Portal, “Bridge International Academies,” Summary of Investment Information (SII), Expected Development Impact, October 30, 2013, available at: <https://disclosures.ifc.org/#/projectDetail/SII/32171>.

<sup>6</sup> IFC, 2013, ESRS, “Expected Development Impact.”

<sup>7</sup> IFC, 2013, SII.

<sup>8</sup> IFC, 2013, ESRS.

<sup>9</sup> Bridge International Academies Website, <http://www.bridgeinternationalacademies.com>.

<sup>10</sup> Bridge International Academies, “Improving education for thousands of children in India,” May 2017, available at: <https://bit.ly/2SUfrLY>.

<sup>11</sup> In 2016, the client engaged in a public-private partnership with the government of Liberia to manage 50 schools as part of a pilot initiative, see IFC, 2016, “Bridge: Built for change” Inclusive Business Case Study. In 2020, the client reported that it was managing 170 schools in Liberia, Bridge International Academies website, “Learning gains in Liberia.”

<sup>12</sup> Bridge International Academies website, “EdoBEST” available at: <https://bit.ly/3jo9CBk>.

<sup>13</sup> IFC, 2013, ESRS.

September 2020, the Vice President requested that CAO consider these issues in a separate compliance appraisal (Bridge-04 case).

CAO completed its compliance appraisal on Bridge-04 in December 2020 and released an Appraisal Report.<sup>14</sup> As set out in CAO's Appraisal Report, CAO's initial review of the project documentation raised questions as to the adequacy of IFC's due diligence and supervision against the requirements of the Sustainability Framework, in particular as to whether IFC's pre-investment review and subsequent supervision of the project properly considered the requirements of Performance Standards 1 and 4 as relevant to child safeguarding and protection risks.

CAO determined that an investigation is an appropriate response to the issues raised in the Vice President's request.

## Investigation Terms of Reference

Where, as in the present case, the CAO appraisal process results in a decision to investigate, CAO develops terms of reference for the compliance investigation, outlining:

- 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.*<sup>15</sup>

### A. Objective, scope, and methodological approach

**Objective and scope:** As established by the CAO Appraisal Report, CAO will conduct a compliance investigation of IFC's investment in Bridge International Academies in relation to the issues raised in the internal request. These include child safeguarding and protection, including specific allegations about child sexual abuse by Bridge teachers at Bridge schools. In this context, CAO utilizes the definitions set out in UNICEF's *Child Safeguarding Toolkit for Business*.<sup>16</sup>

***Child*** – any individual under age 18, regardless of whether the national age of majority is younger.

***Child abuse*** – includes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity.

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<sup>14</sup> CAO Appraisal Report Bridge International Academies-04, December 2020, available at:

<http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport-BIA-04-Dec23.pdf>.

<sup>15</sup> CAO Policy, Sec. X, para. 118.

<sup>16</sup> UNICEF, *Child Safeguarding Toolkit for Business*, 2018, available at:

<https://www.unicef.ch/de/media/1049/download>.

**Child safeguarding** – actions taken by the company to prevent physical, sexual and emotional abuse and maltreatment perpetrated by employees or other persons whom the company is responsible for, including contractors, business partners, visitors to premises and volunteers. Safeguarding includes proactive measures to keep all children who come into contact with a company employee or representative safe from harm as a result of that contact.

**Child protection** – actions taken to address a specific concern that a particular child is at risk of significant harm due to his or her contact with corporate actors, business partners, products or services.

In relation to these matters, the objective of the investigation is to determine:

1. Whether IFC/MIGA has complied with its E&S Policies, including:
  - a. Whether IFC/MIGA has materially deviated from relevant directives and procedures; and
  - b. How IFC/MIGA reviewed and supervised the Project's compliance with its E&S requirements, including applicable national law where relevant to IFC/MIGA E&S requirements.
2. Whether there is harm or potential harm related to any IFC/MIGA non-compliance.<sup>17</sup>

The Bridge-04 case will address issues related to child safeguarding and protection, with specific focus on potential child sexual abuse in Bridge schools. The investigation will focus on IFC's appraisal and supervision of Bridge with respect to its systems and their application to prevent and respond to instances of child sexual abuse. All other issues raised by the Complainants in Bridge-01 will be handled in a separate investigation, which is currently underway.

The CAO Appraisal Report identified several questions regarding IFC's due diligence and supervision of the client in relation to child safeguarding and protection. The investigation will examine whether IFC obtained information necessary to assess the status of the project's compliance with the Performance Standards and with national law, including those laws implementing international commitments. It will also look into whether IFC assured itself of the client's capacity and commitment to implement PS1 and PS4 requirements relevant to child safeguarding and protection in light of the project context and scale, the nature of the client's service delivery model, and good international industry practice (GIIP) in the field.

The investigation will also consider IFC's supervision of client performance in relation to child safeguarding and protection, including child sexual abuse, particularly in relation to client reporting, community access to grievance redress, and response to incidents.

However, in making findings regarding Harm and whether any Harm is related to IFC/MIGA non-compliance with its E&S Policies, CAO may consider the client's environmental and social performance.

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<sup>17</sup> CAO Policy, Sec. X, paras. 112 - 114.

*Methodological Approach:* Following transitional arrangements agreed as part of the CAO Policy process, CAO will carry out the Bridge-04 investigation under the 2021 IFC/MIGA Independent Accountability Mechanism (CAO) Policy.<sup>18</sup>

CAO will base the compliance investigation on information available to CAO from interviews, statements, reports, correspondence, CAO observations of activities and conditions, and other sources that CAO deems relevant.<sup>19</sup>

The compliance investigation process and associated report will 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.*<sup>20</sup>

Sufficient, relevant evidence is required to afford a reasonable basis for CAO's compliance findings and conclusions. 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 and will not make findings and conclusions with the benefit of hindsight.<sup>21</sup>

In addition, CAO will be guided by good international practice regarding ethical standards for information-gathering, review, and analysis related to child safeguarding and protection.

## **B. External expert(s)**

CAO will engage one or more external experts to assist in the investigation. For this compliance investigation, CAO considers the following qualifications as necessary for external experts:

- Significant expertise and experience in child rights and international good practice regarding child safeguarding and child protection policies, particularly in the context of low-income communities and educational settings.
- Significant expertise in conducting reviews of institutional approaches to child safeguarding and protection, particularly in the context of child sexual abuse, including policies, procedures, implementation, and incident response.
- Significant expertise and experience in the assessment and management of sexual and gender-based violence of minors, including interviewing survivors and their families.

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<sup>18</sup> "IFC/MIGA Independent Accountability Mechanism (CAO) Policy Transitional Arrangements," available at: <http://www.cao-ombudsman.org/documents/CAOPolicy-TransitionalArrangements.pdf>.

<sup>19</sup> CAO Policy, Sec. X, paras. 115 and 117.

<sup>20</sup> CAO Policy, Sec. X, para. 120.

<sup>21</sup> CAO Policy, Sec. X, paras. 116 - 117.

- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts.

### **C. Compliance investigation schedule, timeframe, and reporting requirements**

Under CAO Policy Section X at paragraph 121, a draft compliance investigation report must be circulated within one year of an appraisal report's disclosure. By December 2021, a draft Compliance Investigation Report for this case will be circulated to IFC/MIGA Senior Management and all relevant IFC/MIGA departments 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.<sup>22</sup>

The period for IFC/MIGA's factual review and comment is 20 business days. Upon receiving comments on the consultation draft from IFC/MIGA, CAO will finalize the investigation report. The final report will be submitted to IFC/MIGA Senior Management and circulated to the IFC/MIGA Board for information. The Board has no editorial input on the content of a CAO compliance investigation report. Once the investigation report is officially submitted to IFC/MIGA Senior Management and circulated to the Board, CAO will notify the public on its website of the investigation's completion.<sup>23</sup>

Upon CAO's official submission of the Compliance investigation report to IFC/MIGA, IFC/MIGA Management has 50 business days to submit a management report to the Board for consideration. The management report must include a MAP for Board approval. A MAP contains time-bound remedial actions that IFC/MIGA proposes for the purpose of addressing CAO findings of non-compliance and related harm. IFC/MIGA must consult with complainants and the client during its MAP preparation process, and its management report must also include a reasoned response to CAO's finding or recommendations regarding non-compliance or related harm that IFC/MIGA is unable to address in the MAP.<sup>24</sup>

CAO will submit comments on the proposed MAP to the Board.<sup>25</sup> Upon the Board's approval of the MAP, CAO's investigation report, Management Report, and MAP will be published on CAO's website.<sup>26</sup>

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<sup>22</sup> CAO Policy, Sec. X, para. 122.

<sup>23</sup> CAO Policy, Sec. X, paras. 123 and 127 - 129.

<sup>24</sup> CAO Policy, Sec. X, paras. 130 - 132 and 134.

<sup>25</sup> CAO Policy, Sec. X, para. 135.

<sup>26</sup> CAO Policy, Sec. X, para. 138.