

CAO ASSESSMENT REPORT

Regarding Concerns in Relation to IFC's Investment in PT. KEB Hana Bank Indonesia (Rights Issue IV) in the Republic of Indonesia (IFC 42034)

March 2024

About the CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism of the International Finance Corporation (IFC) and Multilateral Investment Guarantee Agency (MIGA), members of the World Bank Group. We work to facilitate the resolution of complaints from people affected by IFC and MIGA projects in a fair, objective, and constructive manner, enhance environmental and social (E&S) project outcomes, and foster public accountability and learning at IFC and MIGA.

CAO reports directly to the IFC and MIGA Boards of Executive Directors. For more information, see www.cao-ombudsman.org

About CAO Assessments

Any person who believes they may be harmed by an IFC or MIGA project can lodge a complaint to CAO. We apply three simple eligibility criteria to accept a complaint. For eligible complaints, we assess the concerns with the complainant(s), project sponsor, and other relevant stakeholders.

Once a complaint is determined to be eligible, we review the concerns raised in it. This assessment is conducted in consultation with the complainant, IFC and MIGA client and project teams, and other relevant stakeholders.

Purpose

The objective of the CAO assessment process is to develop a thorough understanding of the issues the complaint raises, work to understand all perspectives, engage with all key stakeholders to the complaint, consult with them to determine the process they choose to address the complaint, and consider the status of other grievance resolution efforts made to resolve the issues raised.

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ACRONYMS

APS	Asosiasi Pengusaha Suralaya/ Suralaya Entrepreneurs Association
CAO	Office of the Compliance Advisor Ombudsman
CSOs	Civil Society Organizations
EHS	Environmental, Health, and Safety
EIA	Environmental Impact Assessment
ERM	Environmental Resources Management
E&S	Environment and Social
FSA	Financial Service Authority
HBI	PT. Bank KEB Hana Indonesia
IDI	Inclusive Development International
IFC	International Finance Corporation
IRT	Java 9 and 10 developer PT Indo Raya Tenaga
KEPCO	Korean state-run Korea Electric Power Corporation
GFA	Global Facilities Agent
MIGA	Multilateral Investment Guarantee Agency
NGOs	Nongovernmental organizations
PS	Performance Standard
RI	Rights Issue

1. OVERVIEW

On September 13, 2023, a complaint was lodged with CAO on behalf of community residents of Suralaya village, Cilegon, Banten Province, Indonesia, by four civil society organizations: Inclusive Development International (IDI), Recourse, Trend Asia, and PENA Masyarakat.

PT Bank KEB Hana Indonesia (“HBI”)¹ has been an IFC portfolio client since 2007. IFC is indirectly exposed to the Java 9 and 10 coal plants through its 2019 equity investment in KEB Hana Bank Indonesia (including the latest Rights Issue IV), which in turn provided a loan to the Java 9 and 10 developer PT Indo Raya Tenaga (“IRT”) in July 2020. HBI is one of the 14 financiers and contributed around 2% of the total financing. IRT was established as a special-purpose vehicle to manage the project through a consortium agreement between PT Indonesia Power² and PT Barito Pacific Tbk, who were later joined by the Korean state-run Korea Electric Power Corporation (KEPCO).

The complaint encompasses alleged violations of the IFC Sustainability Framework, during project due diligence and supervision. The complaint alleges that these violations have resulted in harm suffered by residents of Suralaya village as well as intimidation and retaliation faced by community members. CAO found the complaint eligible on October 17, 2023, and began its assessment process.

During the assessment process, IFC’s client expressed that they preferred a Compliance process rather than Dispute Resolution, while the complainants had divided preferences on proceeding with dispute resolution or compliance. Consequently, the case will proceed to a compliance appraisal³ that will determine whether the complaint merits a compliance investigation or whether CAO can close the case.

2. BACKGROUND

2.1 The Project

According to IFC’s disclosure website, IFC’s current equity investment in HBI totals US\$46.9 million (9.98% equity stake). This consists of an initial investment in 2007, followed by six Rights Issue (“RI”) transactions from 2007 to 2019, including Project # 42034,⁴ KEB Hana Indonesia Rights Issue IV of US\$15.36 million, which was approved in March 2019 (the latest RI). The purpose of the latest RI was to support HBI’s digital financial services-oriented growth strategy by helping HBI finance capital investment in digital infrastructure, in order to create distribution and service channels for increasing the size of its lending operations in all business segments, particularly in the small-to-medium enterprise segment.

In July 2020, HBI joined a consortium with other commercial and public banks and provided project finance to the Java 9 and 10 coal-fired steam power plants. The loan term extends until 2035. HBI is one of the syndication loan participants in Indo Raya Tenaga (“IRT”), a subsidiary of PLN and Barito Pacific Tbk that is developing the Java 9 and 10 plants. HBI’s portion of this deal is US\$56 million, representing around 2% of the total syndication loan. The complainants stated that IFC is exposed to Java 9 and 10 through its 2019 equity investment in HBI.

¹ KEB Hana Bank Korea, which is wholly owned by Hana Financial Group, has a 69.01% share of PT Bank KEB Hana Indonesia. <https://www.hanabank.co.id/en/about/company>

² PT Indonesia Power is a subsidiary of PLN. It has a 51% share of PT Indo Raya Tenaga. PT Indo Raya Tenaga website: Shareholder: <https://www.irt.co.id/shareholder/>

³ See Para. 59 of the new [CAO Policy](#), which states that “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.”

⁴ [Disclosure - KEB Hana Indonesia Rights Issue IV \(ifc.org\)](#)

Java 9 and 10 represent an expansion of the existing Suralaya coal-fired power plant complex, joining the eight currently operating units that have a combined capacity of 4,025MW. As of September 2023, about 80% of the construction on Java 9 and 10 had been completed, with full operation scheduled for 2025. The two-unit expansion will have a capacity of 2000MW. The project is considered a National Strategic Project by the government of Indonesia.

At the time of IFC’s investment, IFC’s estimation of the development impact of the project was that it would support HBI’s growth strategy and finance its capital investment in digital infrastructure, in order to create distribution and service channels for increasing the size of its lending operations in all business segments, particularly in the small-to-medium enterprise segment. The Project was classified as Category FI-2 according to IFC’s Policy on Environmental and Social Sustainability.

2.2 The Complaint

The complaint was filed on September 13, 2023, by four local, regional, and international civil society organizations (CSOs) on behalf of community members in Suralaya Village, Cilegon, Banten Province, Indonesia. On the following day, the complaint submitted to CAO was publicly posted on the website of Inclusive Development International (IDI) and Recourse, two of the organizations representing the complainants.⁵

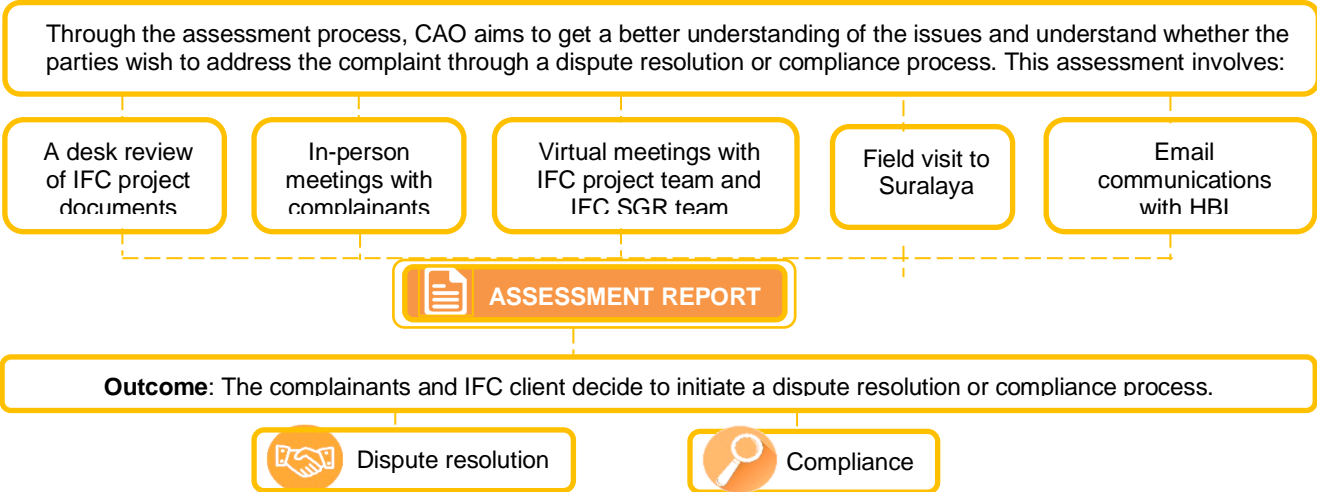
The complainants indicated that they are negatively affected by the construction of the Java 9 and 10 plants, and that more people in Banten may be affected by the issues raised in the complaint. The issues raised include various environmental and climate impacts negatively affecting the living standards of Suralaya residents and neighboring regions: (i) impacts of air pollution on human health; (ii) land acquisition and resettlement impacts; (iii) impacts on the livelihoods of community members, particularly fishermen; (iv) impacts of environmental pollution on ecosystem services; (v) lack of transparency, information, and meaningful consultation with communities; (vi) construction impacts; (vii) threats and reprisals; and (viii) IFC’s lack of due diligence and appropriate supervision.

3. ASSESSMENT SUMMARY

3.1 Methodology

Figure 1 shows the approach and methodology applied in CAO’s assessment process.

Figure 1. CAO Assessment Process



⁵https://www.inclusivedevelopment.net/wp-content/uploads/2023/09/Java-9-and-10_CAO-complaint.pdf; <https://recourse.org/newsupdates/world-bank-under-fire-for-backing-toxic-and-unnecessary-java-9-10-coal-project-in-indonesia/>;

The complainants were represented by the NGOs through a formal representation letter signed by the complainants. During the assessment trip, the CAO team met with the complainants in person.

The CAO assessment process does not entail a judgment on the merits of the complaint; rather, it seeks to understand the facts and assist those involved to make informed decisions on how to address the issues raised.

The issues raised in the complaint and during assessment by the complainants, and the view of the IFC client, are described below.

3.2 Summary of Views

Complainants' perspective

The complainants indicated that, even without the two new units, more than 4 million residents of Banten Province already experience serious threats to their health, livelihoods, and well-being from the eight currently operating units of the Suralaya Complex. They claim that Java 9 and 10 will make an already dire situation worse. The issues raised by the complainants are further explained below.

Impacts of air pollution on human health

According to the complainants, air pollution is a daily problem from the existing coal-fired plants and has resulted in negative impacts on health, such as acute respiratory infections and lung disease. The complainants stated that the number of children suffering from various health-related problems has increased since the power plants started operating in Suralaya in 1985. Company workers are also affected and face respiratory infections from poor air quality.

Trend Asia, one of the nongovernmental organizations (NGOs) representing the complainants, shared with CAO that they checked the air quality in Suralaya residential areas using a simple portable device and found poor air quality. They produced a report and submitted a complaint to the state electricity company PLN and relevant ministries, and also filed a complaint in court. The Supreme Court stated that the government is responsible for the pollution and bad air quality in Jakarta, which is caused by heavy industries in surrounding regions, including the Cilegon area.

Land acquisition and displacement impacts

The complainants contend that they have been forcibly displaced by the project without proper information or compensation. They further elaborated that land acquisitions began before residents had clear details about the project, and that many people learned about the evictions through informal channels, such as social media. They stated that the displacement has occurred without adequate support or compensation for affected residents.

According to the complainants, the company failed to meaningfully share E&S impact assessment documents, or information on the land acquisition and displacement impacts from construction of a new ash handling facility, with the community. They said that the compensation offered was not sufficient to purchase equivalent homes in the area, noting that

the amount offered for land compensation was very low and that the market price of comparable land at that time was two or three times more expensive.

The complainants believe that no land acquisition and resettlement plan was prepared for Java 9 and 10. They said that Kahal Hill, a sacred site where the graves of their ancestors are located, was partially destroyed.

Impacts on livelihoods

The complainants stated that traditional fishing livelihoods have already been affected, and there are concerns that these impacts will worsen with the operation of Java 9 and 10. They said that small-scale vendors and fishermen faced economic displacement without any plan for restoring their livelihoods. Fishermen are unable to catch fish in shallow water near the beach to make a living, but there are increased fuel costs and risks to traveling farther out to sea to find fish. The complainants wanted fisherfolk to maintain access to fishing areas to mitigate impacts on fisher livelihoods. Some other type of livelihood restoration would also be needed for the traders who were displaced from Kelapa Tujuh beach.

However, according to the complainants' representatives, the EIA (Environmental Impact Assessment) and EIA Framework do not clarify if or how the issue of maintaining the fishermen's access to the sea will be addressed. They further said that while there is a mention of providing fisherfolk with access to the sea, there is no acknowledgement that their previous access through Kelapa Tujuh beach will be destroyed by the project. The complainants' representatives further said that the EIA also failed to acknowledge the impacts on farmers and community members who will lose access to land used for seasonal crops and small-scale farming.

Complainants said that although there are some employment and business opportunities as a result of this project, which can be seen as a positive economic impact, PT Indonesia Power's commitment to prioritize hiring local workers during construction did not happen in practice. They further shared that, although existing Suralaya projects constructed a health clinic prior to the construction of Java 9 & 10 in Suralaya village, it is just a building without permanent operation.

In addition, the complainants' representatives noted that the company's past corporate social responsibility programs do not constitute a comprehensive Livelihood Restoration Plan.

Environmental pollution and its impact on ecosystem services

The complainants stated that the marine environment in the Suralaya Complex and surrounding areas is already being negatively impacted by industrial activities. Coral reefs, which are important for tourism and fishing for the local community, are declining in quality and facing threats of seawater pollution due to the high temperature of wastewater discharged into the sea. Furthermore, the complainants said that the Suralaya community is experiencing toxic dust storms due to poorly managed waste, and that they lack information on waste management, including from the ash handling facility.

The complainants said that the productivity of farming in the area has declined due to air pollution and dust, as well as water scarcity, as the water is now largely consumed by projects and industries located at the foot of the hill. The challenges with farming in the Cilegon area are exacerbated by the lack of availability of farmland, as much land is converted into industrial or residential areas, as well as pollution and the limited availability of water. The complainants expressed a desire for plentiful water and fertile soil, as in the past.

Representatives of the complainants also expressed concern that the EIA for the Java 9 and 10 project fails to comply with IFC's environmental and social performance standards (PS), by not considering alternatives to reduce greenhouse gas emissions. They contend that the EIA lacks analysis of alternatives and does not assess the project's emissions in the context of the global climate crisis. They further argue that the project is unnecessary, due to excess capacity in the Java-Bali network, and that its significant emissions should have been addressed. The CSOs representing the complainants are concerned that IFC's investment in Java 9 and 10 is undermining the spirit of its Green Equity Approach (to which HBI is a signatory), whereby IFC commits to support financial intermediary clients to exit coal by 2030. The complainants are also worried about the project's contribution to climate disasters locally and globally.

Lack of transparency, information, and meaningful consultation with communities, and construction impact

Some of the complainants shared that community members were not consulted during the planning process of Java 9 and 10 power plants, which increased negative impacts on residents' well-being. As described by the complainants, community safety risks arose from the transportation of coal, with incidents such as coal barges catching fire and coal spilling into the surrounding sea. The complainants were also concerned about construction and blasting activities causing damage to homes, with no resolution or compensation provided for the affected residents. In addition, there is no appropriate grievance mechanism to raise concerns about the project. Consultation meetings were limited to neighborhood leaders, who didn't communicate the results to the rest of the community.

The other complainants said that they were consulted but were provided with misleading information. Community members had been told that the land would be acquired for building a new workers' housing complex for Java 9&10 and a green open space, but instead the ash handling facility was built on that acquired land.

Threats and reprisals

The complainants said that community members fear that those who oppose the project face serious risks of retaliation, including intimidation and violence. There are fears of privacy violations from constant monitoring by the company through their network of people working for or under the control of the company, making it difficult to trust others.

According to the complainants, job security is also a major concern, as workers and their families worry about potential job loss or demotion if they speak out against the project. The complainants noted that "some workers demonstrated 4-5 times demanding rise of wages. Unfortunately, around 20 workers were fired and blacklisted from working for the company. When some of the workers tried to apply to work for the company, they were told by the Suralaya Entrepreneurs Association (APS) that they are banned and cannot work for the company."

The complainants highlighted that the people of Suralaya are afraid of speaking up. Due to direct and indirect intimidation, some complainants refrained from being critical and vocal for some time. According to the complainants, the intimidation is often indirect; security personnel, sometimes including military personnel, often made the rounds in the villages. Furthermore, complainants alleged that when the statements and testimonies of small business owners in the project area regarding pollution and other impacts of the project were published in online media, company men (from either APS, Village Administration, and/or other company-connected people) demanded that they retract their statements and testimonies. If the small business owners refused, they would be evicted and lose their business, and thus they no longer speak up.

IFC's lack of due diligence and appropriate supervision

The complainants also raised the question of IFC's implementation of its Sustainability Framework, which has also undermined its Green Equity Approach. They argue that IFC's investment in Hana Bank Indonesia is subject to the IFC Sustainability Policy and the related performance standards which require the management of social and environmental risks to achieve environmental and social outcomes. The complaint questions the IFC's due diligence and supervision, as well as HBI's application of the IFC PS to the coal plants.

According to the complainants, the analysis of IFC's environmental and social risks and impacts lacked rigor. They also stated that IFC's original public disclosures about environmental and social risks posed by HBI were inadequate, and that IFC was unaware that its client had made the investment in Java 9 and 10 in July 2020 due to its lack of due diligence and appropriate supervision. To prevent presenting misleading information to the public, the complainants believe that IFC should have re-assessed its risk categorization of HBI following HBI's investment in the Java 9 and 10 sub-projects, due to its potential material change impacting on HBI's environmental and social risk profile and stepped up its supervision of HBI and its high-risk sub-projects. Furthermore, the complainants indicate that the cumulative impacts of Java 9 and 10 on air quality, seawater quality, and hazardous waste were not truly assessed.

Company's perspective

Hana Bank Indonesia (HBI) expressed surprise at the complaint, emphasizing that it is only a participant in the syndication loan, representing 2% of the total loan to the project. HBI acknowledged that DBS Bank Ltd, as a Global Facilities Agent (GFA), conducted due diligence on EE&S aspects on behalf of the syndicate and hired a competent consultant for the assessment and monitoring. HBI highlighted that E&S risk management is integrated into its own risk management department, which has established an E&S risk management system. They stated that HBI is not violating any local regulations, as there are no restrictions on coal financing in Indonesia.

HBI pointed out that other banks have larger shares in the loan and that this is not its first time financing coal plants. However, HBI coal financing will be further reduced by 50% at the end of 2025 compared to 2019, in accordance with the Shareholder's Agreement. HBI also shared that it has been implementing sound E&S risk management practices, including non-financing of the activities categorized in the exclusion list. HBI mentioned that IRT received a loan from HBI in 2020, which will mature in 2035. Furthermore, IFC's investments in HBI (including project #42034) predated implementation of IFC's Green Equity Approach.

HBI clarified that its participation as one of the lenders does not violate any regulations set by the Indonesia Financial Service Authority (FSA) or any other prevailing regulations in Indonesia regarding coal financing. HBI is also compliant with the Shareholders' Agreement for financing the coal-related project. Therefore, the complainants might consider directing their concerns to the relevant authorities for effective resolution. HBI expressed that it is committed to minimizing any potential reputational risks that may arise from this grievance process and has chosen to engage in the CAO Compliance process to address these concerns.

Since the direct parties in the complaint are IFC and HBI, as IFC's client, IRT refused to communicate directly with the assessment team. However, IRT communicated to HBI that it is always available to support HBI for additional information requests or support. HBI acted as an intermediary and conveyed IRT's message on the complaint to the assessment team.

IRT wrote that the project was developed to meet the requirements of the Indonesian government's Electricity Power Supply Business Plan of 2018-2027.⁶ IRT contends that the project adheres to several international standards, which includes IFC PS, and guidelines such as IFC Environmental, Health, and Safety (EHS) Guidelines and IFC EHS Guidelines for Thermal Power Plants and is fully compliant. IRT's view is that the project's E&S documents were carefully prepared by the project, together with internationally recognized E&S consultant Poyry (now AFRY⁷) and Environmental Resources Management (ERM), during 2019-2021. They also state that these documents have been thoroughly reviewed by the lender's E&S consultant, AECOM,⁸ to ensure compliance against the above standards. They further mentioned that the project continues to be monitored by the lender's E&S consultant through periodic site visits and audits of the E&S report updates.

IRT argued that the project acknowledges the significance of integrating environmental and social safeguards and mitigation throughout the project life cycle, from planning to post-operation phases. They believe this approach enables the acknowledgment, understanding, and sustainable and environmentally responsible management of any adverse risks and impacts, in accordance with the requirements outlined in the IFC PS (IFC PS 1 through IFC PS 8).

4. ASSESSMENT CONCLUSION

During the assessment process, IFC's client expressed that they preferred a Compliance process rather than Dispute Resolution, while the complainants had divided preferences on proceeding with dispute resolution or compliance. Consequently, the case will proceed to a compliance appraisal⁹ that will determine whether the complaint merits a compliance investigation or whether CAO can close the case.

Appendix A provides additional information on the steps of the compliance process.

⁶ https://gatrik.esdm.go.id/assets/uploads/download_index/files/3fa53-ruptl-pln-2018-2027.pdf [gatrik.esdm.go.id]

⁷ <https://afry.com/en> [afry.com]

⁸ The Project's Lenders Environmental and Social Consultant, AECOM <https://aecom.com/> [aecom.com]

⁹ See para. 59 of the new [CAO Policy](#), which states that "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."

5. APPENDIX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO Dispute Resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function or whether the case should be reviewed by CAO's Compliance function.

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,¹⁰ the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgment** of receipt of the complaint.

Step 2: **Eligibility:** Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 business days).

Step 3: **Assessment:** Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's E&S due diligence. The assessment time can take up to a maximum of 90 business days, with the possibility of extension for a maximum of 30 additional 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.

Step 4: **Facilitating settlement:** If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected.¹¹

OR

Compliance Appraisal/Investigation: If the parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one complainant must provide explicit consent for the transfer unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with E&S policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending by 20 business days in exceptional circumstances. Second, if an

¹⁰ For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/889191625065397617/ifc-miga-independent-accountability-mechanism-cao-policy>

¹¹ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA’s performance. An investigation report will be made public, along with IFC/MIGA’s response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

Figure 2. Compliance Process Flowchart

