



CAO Compliance Appraisal of Complaint Regarding Coal Power Plant Sub-Project of IFC Investment in PT Bank KEB Hana Indonesia

IFC Project #42034

June 24, 2024

About 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 project outcomes, and foster public accountability and learning at IFC and MIGA.

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

About the CAO Compliance Function

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

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

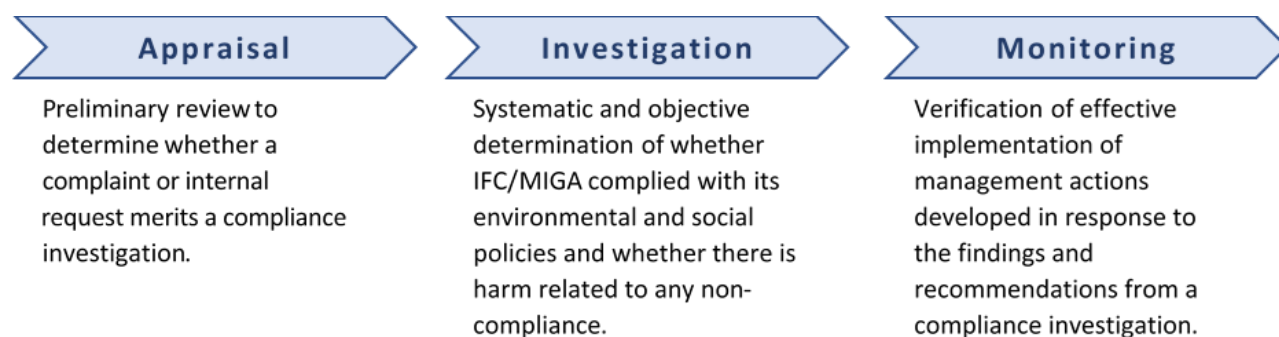


Table of Contents

About CAO	ii
About the CAO Compliance Function	ii
Table of Contents.....	iii
Acronyms	iv
Executive Summary	1
1. Context	4
<i>IFC Investment in the Client and Sub-Project Information.....</i>	<i>4</i>
<i>Compliance Appraisal Scope and Methodology</i>	<i>7</i>
2. The Complaint.....	7
3. IFC Management Response	8
4. Client Statement	10
5. CAO Analysis.....	10
<i>a) Analysis of Preliminary Indications of Harm</i>	<i>10</i>
<i>b) Analysis of Preliminary Indications of Potential IFC Non-compliance.....</i>	<i>13</i>
<i>c) Analysis of Plausible Link between Harm Allegations and Potential IFC Non-compliance....</i>	<i>17</i>
<i>d) Additional Appraisal Considerations.....</i>	<i>18</i>
6. CAO Decision and Next Steps	18
Appendices	19
<i>Appendix 1: Complaint</i>	
<i>Appendix 2: IFC Management Response</i>	
<i>Appendix 3: Additional Appraisal Considerations</i>	
<i>Appendix 4: Terms of Reference for Compliance Investigation</i>	

Acronyms

CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CFSP	Coal Fired Steam Power Plant
CSO	Civil Society Organization
E&S	Environmental and Social
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESRP	Environmental and Social Review Procedures
FI	Financial Intermediary
GEA	Green Equity Approach (IFC)
GHG	Greenhouse gas (emissions)
Hana Indonesia	PT Bank KEB Hana Indonesia
IFC	International Finance Corporation
IRT	PT Indo Raya Tenaga (Java 9 & 10 developer)
MIGA	Multilateral Investment Guarantee Agency
MW	Megawatt
PS	Performance Standards (IFC)
SII	Summary of Investment Information
SME	Small and Medium Enterprise

Executive Summary

This report documents CAO's compliance appraisal of a 2023 complaint from residents of Suralaya village, Banten Province, Indonesia, submitted by four national and international civil society organizations. The complaint concerns environmental and social (E&S) impacts of two coal fired steam power plants (CFSPs) currently under construction, known as Java 9&10, that are financed in part by PT Bank KEB Hana Indonesia, an IFC client. For the reasons summarized below, CAO concludes that the complaint merits a compliance investigation.

Complaint relating to IFC Investment in Hana Indonesia

IFC first made an equity investment in the financial institution now known as PT Bank KEB Hana Indonesia (Hana Indonesia) in 2007. Several other financings followed, most recently in 2019 to retain IFC's 9.98 percent shareholding, for a total investment of US\$46.9 million.

In July 2020, Hana Indonesia provided a loan to the Java 9&10 developer, PT Indo Raya Tenaga (IRT or sub-client), as part of a syndicate of 14 public and commercial banks. Hana Indonesia's commitment amounted to about 2 percent of the total financing and about 1 percent of the total project cost. The plants are due to begin operations in 2025.

The complaint to CAO alleges that the 2000 MW IFC sub-project, by expanding existing coal-fired power plants in the area, will exacerbate impacts including air pollution that causes local health problems, land acquisition and resettlement issues, and effects on villagers' livelihoods and ecosystem services. The complainants also allege that the villagers lacked project-related information, were not meaningfully consulted about project impacts, and faced threats and reprisals. They accuse IFC of a lack of due diligence and appropriate supervision.

IFC Management Response

IFC's Management's Response to the complaint asserts that no non-compliance with relevant E&S policies has occurred. IFC points out that under the Sustainability Framework it is not required to conduct environmental and social due diligence (ESDD) of, or supervise, sub-projects of financial intermediary (FI) clients directly. In addition, IFC asserts that any alleged harm to the complainants would not be plausibly linked to any potential IFC non-compliance given IFC's indirect and nominal exposure to Java 9&10 through Hana Indonesia. Similarly, IFC notes that the client's minor financial exposure to the sub-project would not result in meaningful expectation of remedial actions for the complainants should a compliance investigation proceed.

Moreover, IFC states that documentation shared by Hana Indonesia indicates that the sub-project has been properly assessed, E&S risks and potential impacts identified, and an Environmental and Social Action Plan (ESAP) agreed with the developer.

CAO Analysis

CAO has concluded, based on an initial review of available information, that the complaint meets the criteria for a compliance investigation under the CAO Policy. CAO finds that the complaint demonstrates:

a) Preliminary indications of Harm, which includes Harm that is reasonably likely to occur in

the future, on the basis of testimony by residents of Suralaya village and others living near the project, along with anticipated or previously documented adverse environmental, health, and economic impacts resulting from air pollution, inadequate waste management, threats and reprisals, improper resettlement, lack of livelihood restoration, and damage to cultural heritage related to the development of Java 9&10 and the existing Suralaya power plant complex. The alleged E&S risks and impacts relating to ambient air quality and related community impacts, for example, can be typical of those commonly associated with the sector.

b) Preliminary indications of potential IFC non-compliance with its E&S policies, as follows:

- IFC's determination in 2019 during its E&S due diligence for the fourth rights issue in Hana Indonesia, and its confirmation during supervision in September 2020, that the client's overall E&S risk portfolio was moderate despite investments in high-risk projects, including the Java 9&10 CFSPs, is a preliminary indication of potential non-compliance with IFC's ESDD requirements.
- Apparent inconsistencies in IFC's assessment of Hana Indonesia's E&S performance, including the lack of adequate information to determine satisfactory performance of the client's E&S Management System (ESMS) are preliminary indications of potential IFC non-compliance with supervision requirements.
- IFC's recognition of Hana Indonesia's ESMS and capacity issues during the 13 years of investment prior to the Java 9&10 sub-project, without an action plan to address the shortcomings identified, is a preliminary indication of potential non-compliance by IFC with its supervision requirements.
- The lack of confirmation that the terms and conditions of the syndication loan require that the Performance Standards apply to Java 9&10 raises questions regarding IFC's assurance that Hana Indonesia applied the PS to all high-risk sub-projects in line with Sustainability Policy requirements (para. 33). As such, it remains an indication of potential IFC non-compliance.
- The fact that high-risk sub-project site visits by IFC as part of its supervision arrangements were not agreed with its client is a preliminary indication of potential non-compliance with IFC's Sustainability Policy obligations.

c) The alleged harms to the complainants are plausibly linked to IFC's potential non-compliance. CAO notes that IFC's Sustainability Framework seeks to avoid and mitigate the kinds of harm alleged in this complaint by applying the relevant requirements to projects. If, as part of E&S due diligence for its fourth rights issue in Hana Indonesia, or during supervision, IFC had properly assessed whether the client had an adequate ESMS and sufficient internal E&S capacity in place, the alleged harm could have been avoided or mitigated with proper application of the PS to high-risk projects, including Java 9&10. Further, while IFC conducted a delayed review of the sub-project ESDD, resulting in recommendations to address E&S performance issues, IFC received inadequate assurance that the client could exert influence over the Java 9&10 developer. As a result, CAO notes that local communities could be experiencing ongoing unmitigated harm, or will be in the future, as the complainants allege.

CAO Decision

As the appraisal criteria have been satisfied, CAO will proceed to conduct a compliance investigation in relation to IFC's investment in Hana Indonesia, following the CAO Policy.

Terms of reference are described in the appendices along with the community complaint and IFC response. The draft compliance investigation report will be completed by July 2025.

This appraisal report will be published on the CAO website and shared with the Board, IFC management, the client, and the complainants.

1. Context

This section provides an overview of the IFC investment relevant to the complaint and information on the CAO compliance appraisal process.

The impacts alleged in the complaint result from two coal fired steam power plants (CFSPs) under construction by a company partially financed by IFC's financial intermediary (FI) client, Hana Indonesia. The complainants state that IFC is exposed to the sub-project through its equity position in Hana Indonesia.

IFC Investment in the Client and Sub-project Information

IFC investment in Hana Indonesia

Nearly two decades ago, IFC supported Hana Financial Group, a global company headquartered in South Korea and a longstanding IFC client, to establish operations in Indonesia. In 2007, IFC acquired a 19 percent equity stake in an Indonesian bank (#26283),¹ renamed PT Bank Hana Indonesia (Bank Hana). In February 2014, Bank Hana and PT Bank KEB Indonesia (Bank KEB) merged to form PT Bank KEB Hana Indonesia (Hana Indonesia or the client). After the merger, IFC's ownership in Hana Indonesia was reduced to its present stake of 9.98 percent.²

IFC's equity investment in Hana Indonesia increased to US\$46.9 million through follow-up equity contributions via rights issues. These financings supported the client to meet minimum capital requirements, provide growth capital, support access to finance for small and medium enterprises (SMEs), expand its business outside Java, and pursue a digital finance-oriented growth strategy. The most recent rights issue of up to US\$15 million was approved by IFC's Board in March 2019 and completed in May 2019 (Rights Issue IV, project #42034). IFC's Summary of Investment Information (SII) cited development impacts including support for capital investment in digital infrastructure to create distribution and service channels that would increase lending operations in all business segments, particularly small-to-medium enterprise.

The investment was classified as a Financial Intermediary (FI) project, category FI-2, in accordance with IFC's Policy on Environmental and Social Sustainability (2012) (Sustainability Policy). The client's portfolio was considered medium risk with key sectors of exposure noted as construction and real estate, and trade, rubber and plastic manufacturing and transportation. According to the SII, the portfolio included four projects subject to the IFC Performance Standards, none of which was exposed to significant E&S risks such as involuntary resettlement or significant impacts on biodiversity, local communities, or Indigenous Peoples. The SII stated that Hana Indonesia was seeking to increase its presence in the SME sector, limiting exposures to larger corporates, and described the client's exposure to coal-related projects as 1.61 percent of its total portfolio in 2019, rising to 2.06 percent in 2022.³

¹ IFC Disclosure: <https://disclosures.ifc.org/project-detail/SPI/26283/hana-indonesia>.

² IFC Management Response, attached as Appendix 2, provides details of IFC's client relationships and additional project information.

³ IFC Disclosure: <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>.

Hana Indonesia investment in Java 9&10

In July 2020, IFC client Hana Indonesia participated as a lender in a syndicate of 14 commercial and public banks providing project financing for the development of two CFSPs. The development of Java 9&10 (the sub-project) constitutes an extension of an existing power complex near Suralaya village in Cilegon, Banten Province, Indonesia. Eight existing units commissioned between 1985 and 2011 have a combined capacity of 4,025MW, and the two new plants will add 2000MW to the power output. As of September 2023, when the CAO complaint was submitted, Java 9&10 was about 80 percent completed, with full operation scheduled for 2025.⁴

Hana Indonesia committed to financing approximately 2 percent of the total syndicated loan of \$US2.6 billion. The total project cost is US\$3.5 billion, with Hana Indonesia's commitment constituting about 1 percent. The loan to the project's developer PT Indo Raya Tenaga (IRT or sub-client) will mature in 2035.

⁴ IFC Management Response, p.9.

Figure 1. Project and complaint timeline

Oct.15, 2007	Approval of a US\$5m equity investment to acquire a 19% equity stake in Bank Hana (IFC Project #26283)
2008 - 2011	Approval of Hana Indonesia Right Issues I, II, and III (IFC Projects #27053, #29152, and #31654)
Feb. 2014	Merger of Bank Hana and PT Bank KEB Indonesia establishing PT Bank KEB Hana Indonesia, and IFC ownership diluted to 9.98%
Oct.12, 2018	Disclosure of SII for KEB Hana Indonesia Rights Issue IV (IFC Project #42034)
Mar.11, 2019	Approval of KEB Hana Indonesia Rights Issue IV for a total investment of US \$46.9m in Hana Indonesia and retaining 9.98% stake (IFC Project #42034)
Jun. 2020	Completion of thrid party ESDD for Java 9&10
Jul. 2020	Project finance of US\$66m for Java 9&10 provided by consortium of commercial and public banks including Hana Indonesia
Oct. 2020	IFC is informed by CSO representatives about Hana Indonesia's investment in the Java 9&10 development, as asserted by complainants
Sep. 2023	CAO receives Java 9&10 complaint
Oct. 2023	CAO finds the complaint eligible and begins assessment
Mar. 13, 2024	CAO issues assessment report and complaint transfers to compliance function for appraisal

Compliance Appraisal Scope and Methodology

The scope of this compliance appraisal⁵ is limited to issues raised in the complaint and CAO's Assessment Report in relation to the complaint.

⁵ CAO Policy, para. 88.

CAO made the appraisal decision based on the appraisal criteria and other relevant considerations in accordance with the CAO Policy. The appraisal involved a preliminary review of the following information:

- The complaint (attached as Appendix 1) and supplementary information provided by the complainants
- Relevant documentation including [CAO's Assessment Report](#) and IFC Management Response
- IFC and client documentation
- Relevant publicly available documentation

CAO also considered information gathered through communications with the complainants and IFC.

CAO extends its appreciation to all parties mentioned in this Compliance Appraisal Report who shared their perspective, knowledge, and time with the CAO compliance team.

2. The Complaint

In September 2023, CAO received a complaint alleging adverse E&S impacts associated with the development of Java 9&10 coal fired steam power plants. Four civil society organizations (CSOs) – Inclusive Development International (IDI), Recourse, Trend Asia, and PENA Masyarakat – filed the complaint on behalf of residents of Suralaya village, Cilegon, Banten Province, Indonesia. During CAO's assessment, the parties failed to agree on pursuing a CAO-facilitated dispute resolution process and the complaint was transferred for compliance appraisal in March 2024.

Complainants' concerns are detailed in their complaint, attached as Appendix 1, and described in the [CAO Assessment Report](#). Briefly, the complaint raises the following concerns regarding the IFC sub-project and Java 9&10's environmental and social impacts on nearby communities:

- Inadequate E&S due diligence
- Lack of effective mitigation measures
- Inadequate cumulative impact assessment
- Inadequate stakeholder engagement, including information disclosure and consultation, and project grievance mechanism
- Air and water pollution resulting in impacts to health, ecosystem services, and livelihoods, and inadequate hazardous waste management
- Lack of alternatives assessment to reduce greenhouse gas (GHG) emissions
- Adverse impacts to community health and security
- Uncompensated physical and economic displacement following land acquisition and failure to restore livelihoods
- Adverse impacts on cultural heritage.

The complainants assert that IFC did not conduct adequate E&S due diligence and supervision of the client, which in turn resulted in inadequate application of the Performance Standards (PS) to the sub-project and harms to the community. The complaint argues that Hana Indonesia's

investment in the sub-client constituted a potential material change that impacted its E&S risk profile as an IFC client. As a result, IFC should have enhanced supervision of both Hana Indonesia and its high-risk sub-projects.

The complainants state that their efforts to engage IFC on Java 9&10 have been ongoing for several years. Moreover, they claim that CSO representatives were the first to inform IFC about Hana Indonesia's investment in the Java 9&10 development during a meeting in October 2020 to discuss a CSO-led report on implementation of IFC's Green Equity Approach (GEA). The complainants assert that Hana Indonesia had been piloting the GEA for more than a year before investing in Java 9&10 without IFC's knowledge and note that the coal-fired plants undermine the GEA and will contribute to the global climate crisis.

3. IFC Management Response

IFC's response to the complaint, attached as Appendix 2, asserts that management does not believe a compliance investigation relating to IFC's investment in Hana Indonesia is warranted. Management presents the following arguments:

- **IFC satisfied Sustainability Requirements for ESDD and supervision of Hana Indonesia.** Management notes that the requirements on IFC for pre-investment due diligence and supervision of FI investments, set out in the Sustainability Policy, differ from those for direct investments.⁶ Specifically, Management notes that IFC is not required to conduct ESDD or oversee sub-projects directly.

IFC notes that it conducted an ESDD process for Hana Indonesia. Based on the findings, and in accordance with the Sustainability Policy, IFC then required Hana Indonesia to apply to its lending operations E&S performance requirements that included the IFC Performance Standards, IFC Exclusion List, and relevant national E&S laws and regulations. As part of its ongoing supervision efforts, IFC conducted six in-person visits to Hana Indonesia and has reviewed 15 annual E&S performance reports during the investment to date.⁷ In addition, IFC supported Hana Indonesia's efforts to strengthen its ESMS in 2016-2017 and worked closely with the client on its implementation, especially in the case of higher-risk sub-projects.

⁶ IFC explains that in FI investments, IFC requires its FI clients to develop and operate an Environmental and Social Management System (ESMS) that is commensurate with the level of E&S risks in its portfolio and prospective business activities. FIs with portfolio and/or prospective business activities that present moderate to high environmental or social risks will require higher-risk business activities they support to apply relevant requirements of the PSs. IFC also implements a regular program of supervision of FI investments. To determine the effectiveness of an FI's ESMS, IFC periodically reviews the process and the results of the ESDD conducted by the FI for its investments. In addition, as part of its supervision efforts, IFC periodically reviews a sample of other FI investments, especially for business activities with significant E&S risks. IFC supervision may include visits at the FI level, as well as to recipients of FI loans/investments, particularly for high-risk sub-projects in cases where IFC is able to negotiate access rights to such sub-projects. Visits to sub-projects are to help identify gaps in FI's ESMS rather than directly managing E&S risks associated with these sub-projects. IFC works with its FI clients to help them address any shortcomings in their ESMS.

⁷ The response states that, given the global COVID-19 pandemic, between March 2020 and late 2022 IFC was able to conduct virtual supervision visits only. The latest supervision visit at the client premises was conducted in January 2024.

In regard to Java 9&10, IFC notes that it reviewed relevant sub-project documentation, including the ESIA and ESDD, to verify the effectiveness of the client's E&S risk management process and shared relevant recommendations with the client. IFC clarified that it does not have direct contractual relationships with the sub-client or access rights to the Java 9&10 site as part of its supervision activities of Hana Indonesia.

- **Hana Indonesia met IFC requirements for assuring the adequacy of sub-project ESDD, and PS alignment and implementation.** Under the Sustainability Policy (para. 33), IFC requires FI clients to carry out individual transaction appraisal and monitoring as well as overall portfolio management in accordance with the E&S risk profiles of their activities and individual sub-projects. Accordingly, IFC notes that Hana Indonesia was expected to conduct pre-investment E&S due diligence, including identifying any gaps between national laws and IFC PS, and require the sub-project to address these gaps, as needed.

The Management Response states that Hana Indonesia conducted ESDD based on information provided by a Global Facilities Agent (GFA)⁸ responsible for all administrative aspects of the syndicated loan, including hiring a qualified Lenders Environmental Consultant (LEC) to conduct the ESDD and E&S monitoring. IFC notes that the ESDD for Java 9&10 included a review of relevant documentation and the GFA received professional advice on the project's E&S compliance against applicable standards including World Bank Environmental, Health and Safety (EHS) Guidelines and the PS. In addition, Hana Indonesia had access to E&S documentation shared by the GFA, including the ESIA, Environmental and Social Management Plan (ESMP), and Environmental and Social Action Plan (ESAP), and concluded through its own internal process that the sub-project was expected to comply with PS requirements within a reasonable period.

IFC's response states that the sub-project benefits from regular E&S monitoring, including site visits from the LEC that reports to the GFA. IFC has not received any notifications from Hana Indonesia, nor is otherwise aware, that the sub-project may not be able to implement the ESAP within the agreed period.

- **Hana Indonesia has no meaningful leverage with the sub-client to seek remedial actions.** IFC acknowledges that all lending activities of Hana Indonesia, once IFC became an investor, were subject to IFC E&S requirements. It also acknowledges that the CAO complaint allegations are serious. IFC notes, however, that its 9.98 percent shareholding of Hana Indonesia means its indirect exposure to the Java 9&10 coal-fired power project amounts to less than 0.16 percent of the total project cost and approximately 0.2 percent of the total external financing.

In describing Hana Indonesia's exposure as nominal (about 1 percent of total project cost and 2 percent of total external financing), IFC asserts that the bank has no meaningful leverage with the sub-client. Consequently, management does not believe that a CAO

⁸ IFC notes that an Equator Principles Financial Institution (EPFI) acted as the GFA for the syndicate, and that in emerging markets, EPFIs use IFC Performance Standards (PS) as an underlying E&S risk and potential impacts assessment framework.

compliance investigation would result in any remedial actions for complainants.

- **Alignment with the Green Equity Approach is not a contractual requirement.** IFC acknowledges that the GEA constitutes IFC's commitment to reduce its indirect exposure to coal-related sub-projects through FIs but notes that it was neither formally launched nor a client contractual requirement at the time of IFC's latest investment in Hana Indonesia.

4. Client Statement

The IFC client did not provide a statement for consideration during this compliance appraisal.

5. CAO Analysis

This section summarizes CAO's analysis of the complaint based on research, document review, and engagement with IFC and the complainants. It presents analyses of the three appraisal criteria that must be satisfied for CAO to determine that a compliance investigation is necessary. The criteria are:

- Whether there are preliminary indications of Harm or potential Harm;
- Whether there are preliminary indications that IFC/MIGA may not have complied with its E&S policies; and
- Whether the alleged harm is plausibly linked to the potential IFC non-compliance.⁹

Based on the analysis below, and available documentation and information which includes limited sub-project related information, CAO concludes that the IFC investment in Hana Indonesia meets the criteria for a compliance investigation.

a) Analysis of Preliminary Indications of Harm

A CAO compliance appraisal is required to consider whether a complaint raises "preliminary indications of Harm or potential Harm."¹⁰ CAO finds that there are preliminary indications of Harm or potential Harm to the complainants resulting from this sub-project of IFC client Hana Indonesia, as presented below, in relation to concerns raised by the complainants:

- **Adverse impacts on human health and the environment.** The release of toxins and air pollutants from the burning of coal has been widely documented. These include sulfur dioxide (SO₂), nitrogen oxides (Nox), particulate matter (PM 2.5, PM10), and heavy metals such as mercury. Potential health impacts documented by medical and epidemiological studies over the past two decades range from asthma and breathing difficulties to brain damage, heart problems, cancer, neurological disorders, and premature death. A recent study found that air pollution from coal power plants is associated with greater mortality than previously thought.¹¹

⁹ CAO Policy, para. 91.

¹⁰ Ibid.

¹¹ Henneman, L., Choirat, C., Dominici, F., Roberts., J, Ziegler, C. [Mortality risk from United States coal electricity generation](#), SCIENCE, November 23, 2023, Vol 382, Issue 6673, pp. 941-946.

Studies have also documented that children may be more vulnerable to the harmful effects of emissions from coal-fired plants.¹²

In addition to the direct emissions from the burning of coal, other sources of these pollutants, such as coal dust from coal transport, storage, and handling, and from the handling, storage, and disposal of ash, also degrades local air quality.¹³

These documented air emissions and the related health impacts are consistent with the air quality concerns raised by the complainants in relation to the existing Suralaya power complex and the development of Java 9&10. The complaint referenced acute respiratory infection, among other issues, in Suralaya village and the greater vicinity of the power plant complex.¹⁴ More than 17,000 people signed Clean Indonesia's online petition describing Java 9&10 impacts on local residents in Banten.^{15,16}

- Further, coal-fired plants are the largest single sources of greenhouse gas emissions (GHGs). Coal power plants produce a fifth of global GHGs¹⁷ and the construction of new coal-fired plants will add materially to emissions. Indonesia is highly exposed to various climate hazards and particularly vulnerable to climate change impacts.¹⁸ The new Java 9&10 plants, with a combined capacity of 2,000 MW, will significantly increase GHG emissions.¹⁹
- **Inadequate stakeholder engagement and project grievance mechanism.** The complainants raise several process-related issues that have affected their ability to voice their concerns and be heard by the client and other relevant decision makers. They include:
 - **Lack of disclosure and transparency:** The full ESIA and other project E&S information

¹² Komisarow, S., & Pakhtigian, E. L. [Are power plant closures a breath of fresh air? Local air quality and school absences](#), Journal of Environmental Economics and Management, Volume 112, March 2022, 102569; Bose-O'Reilly S., McCarty K.M., Steckling N., Lettmeier B., [Mercury exposure and children's health](#), Current Problems in Pediatric and Adolescent Health Care, Vol. 40 (2010), pp. 186-215.

¹³ Jha, A., Muller, [The local air pollution cost of coal storage and handling: Evidence from U.S. power plants](#), J. Environ. Econ. Manag., 92 (2018), pp. 360-396; and Zierold K.M., Odoh C., [A review on fly ash from coal-fired power plants: chemical composition, regulations, and health evidence](#), Rev. Environ. Health, 35 (4) (2020), pp. 401-418.

¹⁴ Jamie K., Lauri M., Vera T., Katherine H., [Air quality impacts of the Banten-Suralaya complex](#), Centre for Research on Energy and Clean Air, September 12, 2023; Isabella S. and Lauri M., [Transboundary Air Pollution in the Jakarta, Banten, and West Java provinces](#), Centre for Research on Energy and Clean Air, August 11, 2020; Yuyun Indradi, [Java 9-10: A Korean Forced Investment in the Midst of a Climate and Humanitarian Disaster](#), Trend Asia, September 13, 2020.

¹⁵ Change.org petition, [Reject the construction of PLTU 9 & 10, save Banten from the threat of toxic dust](#), December 18, 2020.

¹⁶ Notably, concerns about the Java 9&10 project have been subject to judicial inquiry. In August 2019, three Banten residents, along with South Korean nonprofit organization Solutions for Our Climate, filed a petition with the Seoul Central District Court seeking a preliminary injunction to prevent South Korean public financial institutions from financing Java 9&10. In November 2020, Friends of the Earth Indonesia and other Indonesian CSOs filed a lawsuit challenging Java 9&10's 2017 environmental permit due to the project's environmental and public health impacts. Trend Asia, [Threatening Environment and Public Health WALHI Sues Java 9 & 10 Environmental Permit](#), November 4, 2020.

¹⁷ Fatih Birol and David Malpass, [It's critical to tackle coal emissions](#), Commentary, October 08, 2021.

¹⁸ Leiserowitz, A., Rosenthal, S., Verner, M., Lee, S., Ballew, M., Carman, J., Goldberg, M., Marlon, J., Paramita, E., Chamim, M., Mohamad, P. & Daggett, M. (2023). [Climate Change in the Indonesian Mind](#), Yale Program on Climate Change Communication, October 3, 2023.

¹⁹ Kate Geary, [The Green Equity Approach can help end coal finance, but it needs reform](#), Land and Climate Review, December 14, 2021; see also International Energy Agency [Indonesia](#).

is not available on the developer's website²⁰, potentially resulting in lack of information to affected communities about the power plants' E&S risks and impacts. Additionally, complainants' and other local community members state in testimony that they have never seen the ESIA or other project E&S information, and that their requests to the developer for copies of E&S documents have gone unanswered.

- **Consultation:** Available ESDD documentation suggests that the sub-client may not have conducted meaningful consultations with project-affected communities. The complainants and other local community members assert that the lack of such consultation has contributed to the failure to identify and mitigate all relevant E&S risks and impacts, particularly in relation to community health and livelihoods. Public consultation is widely recognized by experts to improve understanding of local conditions and stakeholders' concerns. As such, consultation is essential for identifying effective strategies for mitigating negative impacts.
- **Potential for threats and reprisals:** The concern of threats and retaliation against those who voice their concerns about the E&S risks and impacts of the sub-project was raised by the complainants in their submission. Indonesia has limited civic space to raise concerns²¹, and consequently project-affected people may refrain from doing so. In this case, the sub-client requires individuals to provide detailed personal information, through a form on its website, to access the project grievance mechanism, which could discourage people from using it. At the same time, individuals who provide the personal information necessary to access the grievance mechanism may be at increased risk for threats and reprisals. Similarly, CAO finds the complainants' threats and reprisals concerns connected with Java 9&10 security forces to be credible, based on available ESDD information.
- **Uncompensated resettlement.** The complainants and other local community members state they were not consulted before land acquisition took place. They claim the Java 9&10 developer did not provide clear information about the eviction plan until they were required to leave their residences, at which time community members felt they had to agree to the terms presented. They also cited fear of retaliation as a reason they felt unable to negotiate for better terms. As a result of these circumstances, the complainants allege that local residents were evicted after accepting insufficient compensation and now cannot afford to purchase similar homes in their community. Available ESDD information supports the credibility of the complainants' assertions that they did not receive full replacement value for lost assets.
- **Failure to restore livelihoods.** The destruction of the Kelapa Tujuh Beach for the development of Java 9&10 infrastructure has allegedly caused harm to complainants and affected community members, which they state has not been adequately addressed through livelihood restoration measures. Specifically, complainants allege that they can no longer earn a living selling food and services on Kelapa Tujuh Beach. Preliminary analysis finds that the concerns raised regarding livelihood impacts are credible. Additionally, there is media

²⁰ Note, an "ESIA Brief Explanation" is available on IRT's website: <https://www.irt.co.id/esia-environment-social-impact-assessment/>.

²¹ U.S. Department of State, [2023 Country Reports on Human Rights Practices: Indonesia](#); see also [Indonesia: CIVICUS, Submission to the UN Human Rights Committee on the deterioration of civic space](#), March 1, 2024.

reporting²² that local fish stocks have declined and the cost of fishing has risen since Java 9&10 construction began. The complainants testify that the number of fisherfolk is now around half the pre-construction level. While the project has created jobs, complainants and other local community members allege that few locals have been hired to work on the project since land acquisition took place.

- **Adverse impacts to cultural heritage.** Available information, including direct CAO observation during the field visit carried out for the complaint assessment as well as complainant testimony, indicates that the Kahal Hill, reportedly a sacred burial site housing ancestors of the area's original inhabitants, has been reduced by almost 60 percent to build Java 9&10 facilities. According to the complaint, the hill is now inaccessible to the villagers, causing community distress.

b) Analysis of Preliminary Indications of Potential IFC Non-compliance

A CAO compliance appraisal must consider whether there are "preliminary indications that IFC/MIGA may not have complied with its E&S Policies."²³ In relation to this complaint, CAO concludes that there are preliminary indications IFC may not have discharged its E&S responsibilities in relation to its investment in Hana Indonesia. Specifically:

- **Potential Non-Compliance with E&S Due Diligence Requirements**

As part of the review of E&S risks and impacts of a proposed investment, IFC uses a process of environmental and social categorization to reflect the magnitude of risks and impacts (Sustainability Policy, para. 40). An investment is categorized as FI-2 when an FI's portfolio is composed of business activities that have potential limited adverse environmental or social risks or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures, or if the portfolio includes a very limited number of business activities with potential significant adverse E&S risks or impacts that are diverse, irreversible, or unprecedented. When an FI's portfolio includes substantial financial exposure to business activities with potential significant adverse E&S risks or impacts that are diverse, irreversible, or unprecedented, it should be categorized as FI-1.

IFC categorized its 2019 rights issue investment in Hana Indonesia as FI-2. The client's portfolio was considered medium risk with key sectors of exposure noted as construction and real estate, and trade, rubber and plastic manufacturing and transportation. According to the SII, the portfolio included four projects subject to the IFC Performance Standards, none of which was exposed to significant E&S risks such as involuntary resettlement or significant impacts on biodiversity, local communities, or Indigenous Peoples. The SII mentions Hana Indonesia's latest bank strategy was to increase its presence in the SME sector, limiting exposures to larger corporates.²⁴

In addition, IFC confirmed the client's FI-2 assessment in supervision documentation issued in September 2020, stating that Hana Indonesia's overall E&S risk portfolio was moderate. Yet, IFC acknowledged Hana Indonesia's reported exposure to coal projects (in supervision

²² See for example: *Warga Suralaya Keluhkan Pembangunan Unit 9 & 10 PLTU Indonesia Power*, 2017, <https://faktabanten.co.id/cilegon/warga-suralaya-keluhkan-pembangunan-unit-9-10-pltu-indonesia-power/>.

²³ CAO Policy, para. 91.

²⁴ IFC Disclosure: <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>.

documentation for 2018 and 2019, as reported on the IFC disclosure page for the project). In addition, IFC would have reviewed Hana Indonesia's 2018 and 2019 annual E&S reports, which mention investments in specific coal projects, including at least one power plant. Given the significant and documented health and environmental impacts of coal-fired plants, CAO finds questionable IFC's determination that the E&S risk level of Hana Indonesia's portfolio was moderate.

On the basis above, CAO has questions as to whether IFC's analysis of Hana Indonesia's portfolio risk during its ESDD for the fourth rights issue in 2019 underplayed the actual risks of the portfolio at the time and conformed with the requirements of the IFC Sustainability Policy (para. 40). Subsequent to learning about Hana Indonesia's investment in Java 9&10,²⁵ IFC concluded in supervision documentation in late 2020 that it had access to information suggesting Hana Indonesia may have systematically under-categorized its own investments. This in turn indicated that IFC's due diligence of Hana Indonesia's portfolio may not have been adequate. This documentation also noted IFC's view that Hana Indonesia's portfolio was 'medium high'. IFC has recently reaffirmed this view in supervision documentation from early 2024.

CAO finds that IFC's determination in 2019, and confirmation in September 2020, that Hana Indonesia's overall E&S risk portfolio was moderate despite investments in high-risk projects, including the Java 9&10 CFSPs, is a preliminary indication of potential non-compliance with IFC's ESDD requirements.

- **Potential Non-compliance with IFC Supervision Requirements**

IFC requires FI clients to establish and implement an E&S Management System (ESMS) and assure adequate in-house capacity to carry out individual transaction appraisal and monitoring, as well as overall portfolio management, in accordance with the E&S risk profile of its activities and individual transactions (Sustainability Policy, para. 33). IFC is required to implement a regular program of supervision of FI investments with E&S risks and/or impacts in accordance with the requirements of IFC's Environmental and Social Review Procedures (ESRP). During client supervision, IFC determines the effectiveness of client E&S Management Systems (ESMS) through periodic review of a sample of the client's process and results of its E&S due diligence. IFC supervision may also include visits to recipients of FI loans/investments, and particularly to high-risk sub-projects. The frequency and focus of supervision visits must be commensurate with the identified risks. Through supervision, IFC seeks sufficient evidence both that the client is operating the ESMS as envisaged during IFC's pre-investment appraisal, and that the client has applied applicable Performance Standards to its sub-projects. The Sustainability Policy requires IFC to work with its client to address any ESMS shortcomings (para. 45, and ESRP (2016) 9.2.1; 9.2.5).

IFC assessed Hana Indonesia's E&S performance as 'satisfactory' in the two supervision reviews prior to learning about the client's investment in the sub-project, dated September 2019 and

²⁵ As mentioned above, CSOs indicate that they alerted IFC to Hana Indonesia's investment in Java 9&10 in October 2020. CAO notes that IFC Management Response does not indicate when IFC learned about the investment or disagree with this assertion by complainants.

September 2020. However, the September 2020 review noted that IFC did not have adequate information to determine whether the ESMS was functioning despite at least two prior requests to the client for details. Despite these limitations, IFC's review stated that no changes to the ESMS as previously reported to IFC were indicated. It noted that the client had appointed an E&S officer and reported no material E&S incidents.

As mentioned above, information available to CAO indicates that IFC learned in October 2020 from CSO representatives about its client's July 2020 investment in Java 9&10. IFC then conducted a virtual site visit²⁶ with Hana Indonesia in November 2020, and concluded that ESMS implementation was inadequate, monitoring was not routine, and the client lacked internal E&S capacity.²⁷ IFC's November 2020 review noted that Hana Indonesia had not shared requested information about high-risk sub-projects, including for the Java 9&10 ESDD, and assessed the client's E&S performance as 'partly unsatisfactory'.

The apparent inconsistencies in IFC's assessment of Hana Indonesia's E&S performance, including the lack of adequate information to determine satisfactory performance of the ESMS are preliminary indications of potential IFC non-compliance with supervision requirements.

The concerns outlined in the November 2020 supervision document are consistent with IFC's acknowledgement that a functioning and fit-for-purpose ESMS and adequate E&S capacity have been key issues for IFC throughout its engagement with Hana Bank, as reflected in supervision documentation over time. Hana Indonesia itself has acknowledged its challenges related to internal E&S capacity.²⁸ As of early 2024, IFC maintains that, due to inadequate structure and organization of the ESMS, lack of clear categorization, insufficient ESMS implementation (and appropriateness of the ESMS given the portfolio), insufficient due diligence, and insufficient internal E&S capacity, the client's E&S performance remains partly unsatisfactory.

IFC's acknowledgement of concerns regarding its client's ESMS and E&S capacity may indicate that Hana Indonesia's ESDD procedures were inconsistent with PS1, and that the shortcomings identified in November 2020 existed during the client's ESDD procedures at the time of its own E&S appraisal of Java 9&10. In turn, this creates questions regarding Hana Indonesia's assessment that the sub-project could be expected to meet the requirements of the applicable PS. As mentioned above, IFC's Management Response states that Hana Indonesia had access to E&S documentation shared by the Global Facilities Agent, including the ESIA, ESMP, and ESAP, and concluded through its own internal process that the sub-project was expected to comply with PS requirements within a reasonable period. Available documentation and information do not provide clarity on the 'internal process' leading to Hana Indonesia's reported conclusion. In this context, CAO observes that the ESDD report is dated June 2020, and the

²⁶ The ESRP (2016) sets out the requirement for Site Supervision Visits (SSV) to be carried out as part of IFC's key supervision tasks (section 9.2.1). During the COVID-19 pandemic IFC conducted SSV with clients virtually, according to the Management Response.

²⁷ According to available supervision records, the previous site visit occurred in 2017 or 2018. According to IFC Management Response, "IFC provided enhanced support to Hana Indonesia's efforts to strengthen its ESMS in 2016-2017 and worked closely with the Client to provide guidance on the implementation of the ESMS, especially in the case of higher-risk sub-projects" (p. v).

²⁸ See Hana Indonesia's 2021 Sustainability Report, available at <https://www.hanabank.co.id/en/about/investor/reports> (p. 18).

financing occurred the following month. The short timeframe from the finalization of the third party ESDD to IFC financing raises questions regarding the potential robustness of Hana Indonesia's internal review.

Similarly, IFC's recognition of Hana Indonesia's partly unsatisfactory E&S performance in November 2020 is contrary to IFC's assertion in its Management Response that Hana Indonesia met PS requirements for assuring the adequacy of sub-project ESDD, and PS alignment and implementation. This suggests that IFC's assessment of its client's E&S performance as satisfactory in September 2019 and September 2020 may have been unfounded, and client-level non-compliances may not have been addressed.

Based on the above, CAO finds a preliminary indication of potential non-compliance in IFC's recognition of Hana Indonesia's ESMS and capacity issues during the 13 years of investment leading up to the Java 9&10 investment without an action plan to address shortcomings identified.

IFC asserts that since learning about its client financing Java 9&10, it has been active in its supervision of Hana Indonesia, reviewed documentation of this sub-project, and provided recommendations to bring its client into PS compliance.²⁹ However, during this compliance appraisal, CAO has not received documentation or information regarding the nature or timing of IFC's review or recommendations to the client. Additionally, CAO has not seen evidence of whether PS application was a legal requirement and included in the syndication loan agreement for Java 9&10. **This raises questions with regard to IFC's assurance that Hana Indonesia applied the PS to all high-risk sub-projects in line with the requirements of the Sustainability Policy (para. 33). As such, it remains an indication of potential IFC non-compliance.**

IFC's concerns about Hana Indonesia's E&S performance with regard to Java 9&10 have continued as late as January 2024, based on information available to CAO. Yet, IFC cannot conduct a sub-project site visit in line with the ESRP.³⁰ IFC has been unable to conduct a visit to the sub-project site, as it did not negotiate these rights with Hana Indonesia. While IFC

²⁹ Based on the analysis above, the significant risks and impacts posed by CFSPs, and the complaint issues, CAO finds the following PS requirements relevant to this complaint:

- PS1 (Assessment and Management of Environmental and Social Risks and Impacts) in relation to identification and mitigation of all E&S risks and impacts; cumulative impacts assessment; stakeholder engagement including information disclosure, consultation with affected communities, and a process of Informed Consultation and Participation (ICP); and grievance mechanism.
- PS3 (Resource Efficiency and Pollution Prevention) in relation to adverse impacts on human health, the environment, and ecosystem services due to pollution (affecting ambient air and seawater quality), and alternatives and management of GHG emissions.
- PS4 (Community Health, Safety and Security) in relation to adverse impacts on human health and use of security forces, including threats and retaliation against those who raise concerns about the project.
- PS5 (Land Acquisition and Involuntary Resettlement) in relation to the requirements for a resettlement and livelihood restoration plan, including consultation and proper implementation to effectively restore and compensate for the physical relocation and livelihood impacts on affected communities.
- PS6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources) in relation to biodiversity risks and impacts on the fish population and other ecosystems, and impacts to ecosystem services as a result.
- PS8 (Cultural Heritage) in relation to damage to a sacred site.

³⁰ IFC 2016 ESRP notes: "Effective E&S supervision entails periodic reviews of the client's E&S performance and compliance with IFC's E&S requirements, including through the following key supervision tasks: ... • Undertaking Supervision Site Visits (SSVs) including sub-project site visits and ESDD reviews" (section 9.2.1).

site visits to sub-projects are not required, **the fact that such visits by IFC as part of its overall supervision arrangements with its client were not allowed is a preliminary indication of potential non-compliance with IFC's Sustainability Policy obligations (para. 45).**³¹

c) Analysis of Plausible Link between Harm Allegations and Potential IFC Non-compliance

Lastly, a CAO compliance appraisal must consider whether “the alleged Harm is plausibly linked to the potential non-compliance.”³² In determining whether there is a plausible link, CAO considers the relationship between the potential non-compliance and alleged harm without requiring evidence of causation or contribution.

In this case, CAO considers that there is a plausible link between the complainants' allegations of harm and potential IFC non-compliance in relation to the project. The preliminary indications of harm identified in this compliance appraisal are the types of issues that IFC's Sustainability Framework seeks to avoid, mitigate, and compensate by applying Sustainability Policy requirements to projects. IFC's assessment that Hana Indonesia's E&S risk portfolio was moderate prior to the client's investment in Java 9&10 raises the question of whether IFC understood and structured its engagement with the client based on the actual risk of the portfolio. If it had assessed the portfolio as higher risk, IFC may have engaged more frequently and robustly with the client to assure that its ESMS was commensurate to the risk profile of the portfolio and was being properly implemented, that E&S capacity was adequate, and that actions were agreed to address identified gaps. As part of supervision, IFC could have sought to agree rights to visit high-risk sub-project sites. In turn, these actions could have resulted in timely notification to IFC about Hana Indonesia's investment in Java 9&10, timely IFC advice and guidance to the client following review of E&S documentation, IFC input grounded in field assessment, and assurance of adequate leverage by Hana Indonesia in relation to the sub-project, thereby potentially properly addressing or mitigating the alleged harms. Notably, requisite assurance that a meaningful consultation process was carried out could have resulted in confidence that affected communities' inputs led to identification of all risks and impacts and mitigation measures not otherwise identified by the Java 9&10 developer.

IFC notes in its Management Response that it has now given advice to Hana Indonesia regarding sub-project ESDD and monitoring activities, but that the client's leverage is limited given the size of its investment. IFC's claim of Hana Indonesia's 'nominal' exposure to the sub-project is not persuasive to CAO as: (a) Hana Indonesia has partially financed the sub-project (US\$56m); (b) any high risk sub-project financed by Hana Indonesia is required to comply with the IFC PS regardless of exposure; (c) IFC does have a measurable exposure to the sub-client (0.16 percent of total amount of syndicate's loan and 0.2 percent of total project cost) and to potential significant adverse E&S risks and impacts on people and the environment; and (d) the question of leverage and whether “the client's minor financial exposure to the sub-project would...translate into a

³¹ IFC Sustainability Policy (para. 45) states that “to determine the effectiveness of an FI's ESMS, IFC supervision may include visits at the FI level, as well as to recipients of FI loans/investments, particularly high risk subprojects.”

³² CAO Policy, para. 91.

meaningful expectation of any remedial actions for the complainants”³³ is not yet determined in CAO’s view. CAO also notes that IFC has recently made an investment with one of the syndicate’s arrangers³⁴ and that documentation and information suggests involvement by Hana Indonesia’s parent company/majority shareholder in financing the sub-project.

d) Additional Appraisal Considerations

According to the CAO Policy, a CAO compliance appraisal must take into account a series of additional considerations.³⁵ In this case, CAO does not consider that any are relevant. Details are set out in Appendix 3.

6. CAO Decision and Next Steps

As the appraisal criteria are met, based on available documentation and information which excludes sub-project information, and the additional considerations have been duly considered, CAO will proceed to conduct a compliance investigation in relation to IFC’s investment in Hana Indonesia following the CAO Policy.

Terms of reference for the investigation are described in Appendix 4 of this report. The draft compliance investigation report will be completed by July 2025.

This appraisal report will be published on the CAO website and shared with the Board, IFC management, the IFC client, and the complainants.³⁶

³³ IFC Management Response, para. xv.

³⁴ IFC Disclosure: SII, GTLP DBS Bank - project #47797 - <https://disclosures.ifc.org/project-detail/SII/47797/gtlp-dbs-bank>.

³⁵ CAO Policy, para. 92.

³⁶ CAO Policy, para. 106.

Appendices

Appendix 1 Complaint

Janine Ferretti
Vice President, Compliance Advisor Ombudsman
2121 Pennsylvania Avenue NW
Washington, DC 20433 USA
Tel: + 1 202-458-1973
Fax: +1 202-522-7400
e-mail: cao@worldbankgroup.org

September 13, 2023

Re: Complaint concerning IFC investment KEB Hana Indonesia Rights Issue IV, Project No 42034

Dear Vice President Ferretti,

The organizations listed below are submitting this complaint to the Office of the Compliance Advisor Ombudsman (CAO) on behalf of local community members who have grave concerns about the serious risks posed by the Java 9 and 10 coal-fired power plants, sub-projects of the International Finance Corporation (IFC) through its financial intermediary investment in PT Bank KEB Hana Indonesia (Hana Bank Indonesia).

PENA Masyarakat is a community-based organization in Banten, Indonesia that is working with community members to mobilize against the continued expansion of the coal industry in the area.

Trend Asia is an Indonesian organization that, in light of the opportunities and threats posed by global climate change, is working to drive Southeast Asia's energy and development transformation away from fossil fuels and wasteful consumption and production and toward a sustainable, clean and renewable energy, people-powered future. Trend Asia has been working with local community members in Cilegon since the organization was founded in 2019.

Recourse is an independent, non-profit, non-governmental organization that campaigns for a world where people and planet are at the heart of development. Recourse holds international financial institutions to account, advocating for the protection of rights; participation and transparency; and public accountability in the operations of multilateral development banks.

Inclusive Development International (IDI) is a U.S.-based non-profit organization that works to advance social, economic, and environmental justice by supporting communities around the world to defend their human rights and environment in the face of harmful corporate activities.

We are supporting and advising local community complainants whose lives, livelihoods and overall wellbeing will be severely affected by the Java 9 and 10 power plants being constructed in Suralaya Village, Cilegon, Banten Province, Indonesia. These enormous coal plants, with a combined capacity of 2,000 megawatts (MW), are an expansion of the Suralaya power station, which is the largest coal-fired power complex in Southeast Asia with eight already-operational generating units that have a combined capacity of 4,025MW. With their health and livelihoods already suffering from the eight operational units and other power plants and heavy industry in

the area, local communities fear that adverse impacts will become even more severe once the Java 9 and 10 plants are operational. Harm to local communities, including the forced eviction of those who were living on the project site, is already occurring. Pre-construction and site clearing activities began in 2017, with the formal construction phase beginning in 2020. The project is expected to be fully operational by 2025.

The IFC is exposed to the Java 9 and 10 coal plants through its 2019 equity investment in Hana Bank Indonesia, which in turn provided a total of \$56 million in project finance in July 2020 to Java 9 and 10 developer PT Indo Raya Tenaga.

Construction of the project is already underway, despite clear and ongoing violations of the IFC Sustainability Framework. We fear that these violations will only get worse when the project becomes operational. Among other concerns:

- Construction of these mega coal plants is entirely unnecessary, given the excess capacity that already exists in the Java-Bali grid;
- Despite the existence of dozens of other coal power plants and polluting industries in the area, the brief analysis of cumulative impacts is woefully inadequate and there is no assessment of alternatives;
- The environmental and social impact assessments, which have not been fully disclosed in an accessible manner to the local community, are deficient, failing to appropriately analyze the air pollution or climate impacts of the project, providing incomplete information about hazardous waste, and largely overlooking the physical and economic displacement caused by the project; and
- Community members face intimidation and threats for raising concerns about the project.

As local and national organizations with a mission to protect the interests of local communities negatively affected by Indonesia's coal industry and global climate change, PENA Masyarakat and Trend Asia are themselves affected by the project. They are therefore both complainant organizations and, along with Recourse and IDI, support and advise the local community members who have joined this complaint.¹

Local community complainants face serious risks of reprisal for participating in this complaint and therefore request that the CAO take all necessary measures to keep their identities confidential. As described in more detail below, community members have already been subjected to threats and attacks in connection with advocacy and community organizing work related to the Java 9 and 10 project and other coal projects in the area.

Please direct all correspondence related to the complaint to:

- Trend Asia: Yuyun Indradi (yuyun@trendasia.org), Novita Indri Pratiwi (novita.pratiwi@trendasia.org), Ahmad Ashov Birry (ashov@trendasia.org), and Arip Yogiawan (arip.yogiawan@trendasia.org)

¹ See Confidential Representation and Advisor Agreement, attached as Annex 1.

- Recourse: Kate Geary (kate@re-course.org) and Daniel Willis (dan@re-course.org)
- IDI: Sarah Jaffe (sarah@inclusivedevelopment.net), Shanna Ramadhanti (shanna@inclusivedevelopment.net), Craig Bradshaw (craig@inclusivedevelopment.net) and Natalie Bugalski (natalie@inclusivedevelopment.net)

The complainants are requesting that the CAO conducts a full compliance review investigation of IFC's investment in Hana Bank Indonesia and its support of the Java 9 and 10 coal plants. Complainants believe that this project does not comply, and likely cannot be brought into compliance, with the IFC Performance Standards. As such, it should never have been undertaken in the first place and should be stopped immediately or, if that is no longer possible, should be retired early. Complainants recognize, however, that stopping the project at this point may not be possible, in which case, the project should be upgraded and modified to come as close as possible to compliance with the IFC Performance Standards, including avoiding and mitigating harm and compensating for any future harm that cannot be fully mitigated. Additionally, after a full investigation of IFC's policy violations, complainants seek full and fair redress for harms already suffered, an end to Hana Bank Indonesia's financing of coal projects and systemic policy changes by IFC policy to eliminate all indirect support for coal projects.

This complaint is structured as follows:

- Section I: The Java 9 and 10 expansion of the Suralaya Complex will make an already dire situation worse
- Section II: IFC's exposure to the project and the broader context of the World Bank Group's investments in Indonesia
- Section III: IFC's investment in Hana Bank Indonesia violates its Sustainability Framework and undermines its Green Equity Approach
- Section IV: Efforts to raise concerns about the project
- Section V: Outcomes sought

I. The Java 9 and 10 expansion of the Suralaya Complex will make an already dire situation worse

Uninhabitable. That is how one local community member describes the current conditions in Suralaya as a result of the massive coal power complex dominating the area. In this context, adding two new 1,000 MW coal plants is almost unimaginable.

Even without these new units, the more than four million residents of Banten Province already experience serious threats to their health, livelihoods and wellbeing from the eight currently operating units of the Suralaya Complex. This complex is the largest power station in Southeast Asia with a current combined capacity of 4,025MW.² Additionally, Banten Province is home to dozens of other coal-fired power plants, which together have a capacity of more than 4,000 MW, and more than a thousand manufacturing and industrial facilities.

² Seulki Lee, *South Korea faces public scrutiny for financing coal plants in Indonesia*, Eco-Business (19 April 2021), available at: <https://www.eco-business.com/news/south-korea-faces-public-scrutiny-for-financing-coal-plants-in-indonesia/> (last accessed May 2023) [hereinafter, "Seulki Lee, Eco-Business"].



Map of Banten Province showing some of the other existing coal plants and polluting industries nearby

Air pollution is a daily problem, yet local community members say that air pollution monitoring devices near the complex have not yet been installed as required.³ A thick dust from the power plants and other local industry coats everything, including the leaves of trees. Satellite measurements show that the Suralaya Complex is the most polluting industrial complex in all of

³ Tommy Apriando (Alm.), Yuyun Indradi, Ahmad Ashov Birry, Zamzami Arlinus, Widia Primastika, Andri Prasetyo, Marina Nasution & Hilda Meutia, *Java 9-10: A Korean Forced Investment in the Midst of a Climate and Humanitarian Disaster*, Trend Asia, WALHI & PENA Masyarakat, 18 (13 September 2020), available at: <https://trendasia.org/en/java-9-10/> (last accessed May 2023) [hereinafter, “Trend Asia report”]; Adi Renaldi, *Pollution and foreign debt: Indonesia’s unhealthy addiction to coal*, China Dialogue (14 April 2021), available at: <https://chinadialogue.net/en/energy/pollution-and-foreign-debt-indonesias-unhealthy-addiction-to-coal/> (last accessed July 2022) [hereinafter, “Adi Renaldi, China Dialogue”].

Southeast Asia.⁴ One local community member describes black rainwater and says that if she doesn't sweep for just one day, several centimeters of dust can accumulate.⁵

Atmospheric modeling carried out by Greenpeace in 2017 estimated that the highest levels of air pollution are occurring at the locations where the coal power plants operate, namely in Cilegon and its surroundings, with air pollution spreading as far as Jakarta and beyond.⁶ In fact, air pollution from coal-fired power plants (the Suralaya Complex and others) is responsible for an estimated 2,500 deaths and a host of other negative health impacts in the Greater Jakarta area every year.⁷

In addition to the constant, daily air pollution from the power stations and local industry, Suralaya residents also face toxic dust storms when the winds blow large quantities of poorly managed toxic waste into residential areas.⁸ The Indonesian Waste Management Association in Banten has identified hundreds of companies in the province with serious waste management problems, concluding that Banten is in an industrial waste emergency.⁹

The health of local residents is suffering as a result of the air pollution and toxic waste emergency in the region. Air pollution in Banten has resulted in some of the highest rates of acute respiratory infections in the country.¹⁰ Respiratory problems account for more than 30% of the local disease burden, according to the project's own Environmental Impact Analysis Framework (EIA Framework).¹¹ In 2017 (the most recent year for which data is publicly available), the most common disease suffered by the population of Cilegon was acute respiratory infection.¹² Children are particularly vulnerable.¹³

Air pollution from power plants and industry is not the only threat being experienced by local residents. Transport of coal to Cilegon also poses serious risks: on at least four separate

⁴ Lauri Myllyvirta, Isabella Suarez, Erika Uusivuori & Hubert Thieriot, *Transboundary Air Pollution in the Jakarta, Banten, and West Java provinces*, Centre for Research on Energy and Clean Air, 21 (11 August 2020), available at: <https://energyandcleanair.org/publication/transboundary-air-pollution-in-the-jakarta-banten-and-west-java-provinces/> (last accessed May 2023) [hereinafter, "CREA report"].

⁵ See confidential video from local community members.

⁶ Greenpeace Southeast Asia, *Jakarta's Silent Killer: How the city's dangerous levels of air pollution are about to get even worse*, 6-10 (24 October 2017), available at:

<https://www.greenpeace.org/southeastasia/publication/575/jakartas-silent-killer/> (last accessed May 2023)

[hereinafter, "Greenpeace report"]; see also CREA report at 4, 18-19 (noting that air pollution in Jakarta is three times worse than the concentrations recommended by the World Health Organization, and that emissions of PM_{2.5}, SO₂ and NO_x in Banten are much higher (double or even quadruple) than in Jakarta).

⁷ CREA report at 23.

⁸ Trend Asia report at 7.

⁹ *Id.*

¹⁰ Adi Renaldi, China Dialogue.

¹¹ PT Indonesia Power, *Environmental Impact Analysis Framework: Construction Plan of Coal Power Plant of Suralaya Units 9-10 (2 x 1000 MW) and its Supporting Facilities*, § 2.2.1.5(A)(1) Morbidity (2016) [hereinafter, "EIA Framework"].

¹² Trend Asia report at 8. Health impacts from the Banten coal power plants are widespread, extending far beyond Cilegon. For example, in 2017, existing coal plants caused an estimated 5,260 premature deaths and 1,690 babies born with low birth rates annually in Greater Jakarta. Greenpeace report at 10.

¹³ See Adi Renaldi, China Dialogue; see also confidential video from local community members.

occasions between 2012 and 2019, coal barges caught on fire.¹⁴ On at least two separate occasions, significant amounts of coal were spilled into the surrounding sea; the incident in 2018 turned a local beach black due to coal contamination.¹⁵ There are also reports that water contaminated with coal dust is dumped into the sea after coal barges have unloaded their shipments.¹⁶

Before construction of the Suralaya Complex began back in 1984, the majority of local community members were farmers and fisherfolk. The power plants have decimated those traditional livelihoods. Farmers struggle to grow crops, and traditional fishing techniques are becoming increasingly unviable. One local community member has reported that banana trees and peanuts no longer thrive because of the pollution, including the thick dust that covers the plants.¹⁷ While fisherfolk used to catch fish in shallow waters near the beach, many can no longer make a living that way.¹⁸ Even fisherfolk with boats have felt the impacts, because they have to travel further out to sea to find fish, increasing their costs.¹⁹

A. The project

Against this backdrop, and without any compelling need, given the huge over-supply of electricity in the Java-Bali grid,²⁰ Indonesian state-owned electricity company Perusahaan Listrik Negara (PLN) announced plans to build Java 9 and 10 in Suralaya Village, Cilegon, Banten Province in October 2016. The project is considered a National Strategic Project, which enables it to be fast-tracked and to avoid certain regulations.²¹

PT Indo Raya Tenaga was established as a special purpose vehicle to manage the project through a consortium agreement between PT Indonesia Power²² and PT Barito Pacific Tbk, who were later joined by Korean state-run Korea Electric Power Corporation (KEPCO). On October 5, 2017, President Joko Widodo laid the first stone, officially announcing construction of the

¹⁴ Trend Asia report at 16.

¹⁵ Trend Asia report at 20.

¹⁶ Seulki Lee, Eco-Business.

¹⁷ See confidential video from local community members.

¹⁸ Confidential complainant interviews. See also Adi Renaldi, China Dialogue; Seulki Lee, Eco-Business.

¹⁹ Confidential complainant interviews. See also Adi Renaldi, China Dialogue.

²⁰ There is already excess capacity in the Java-Bali network, meaning that the project cannot be justified on the basis of electricity needs. In fact, demand for electricity consumption has been significantly lower than originally estimated by Indonesia's state-owned electricity company PLN. Trend Asia report at 11. See also, Della Syahni, *In Indonesia, a village held hostage by coal pleads for change*, Mongabay (4 February 2021), available at: <https://news.mongabay.com/2021/02/in-indonesia-a-village-held-hostage-by-coal-pleads-for-change/> (last accessed May 2023) [hereinafter, "Della Syahni, Mongabay"].

²¹ See Government of the Republic of Indonesia, Government Regulation No. 42 of 2021 concerning Making National Strategic Projects Easier ("GR 42/2021"), available at: https://jdih.setkab.go.id/PUUdoc/176348/PP_Nomor_42_Tahun_2021.pdf (last accessed July 2023); see also Hendra Ong, Dinda Triwijanarko and Peniel Alexander Pardomuan, *Job Creation Act Legal Insight: Investing and Land Procurement in Indonesian National Strategic Projects Made Easier*, Dentons HPRP (2021), available at: <https://dentons.hprplawyers.com/en/insights/alerts/2021/may/19/-/media/dc849da6e6194265bcff621537ea6157.ashx> (last accessed July 2023).

²² 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/> (last accessed July 2023).

project, and in September 2018, South Korean company Doosan Heavy Industries and Construction along with PT Hutama Karya were selected to build the project.

In 2020, despite a pre-feasibility study by the Korean Development Institute that concluded the project would not be profitable, the project secured around \$1.9 billion in public financing from South Korea, including funding from KEPCO, the Export-Import Bank of Korea (KEXIM), the Korea Trade Insurance Corporation (K-Sure) and the Korea Development Bank.²³ The project also secured an additional \$2.59 billion in financing from a consortium of commercial and public banks, including Hana Bank Indonesia.²⁴

According to the project's EIA, operation of Java 9 and 10, which will use ultra-supercritical technology, will require 1,100 tons of coal per hour, which amounts to more than 9.5 million tons of coal annually.²⁵ The project as originally conceived included construction of two 1,000 MW generating units and their supporting facilities, requiring 76 hectares of land in total.²⁶ According to the 2017 EIA, the new units would use the existing Suralaya Complex jetty and stockyard, thereby avoiding new construction to support the transport and storage of coal, and would use 15 hectares of land adjacent to already existing ash disposal area for waste.²⁷ Analysis in the EIA, which identified significant traffic at the existing jetty²⁸ and acknowledged that the ash disposal area would only be sufficient for approximately 1.5 years of operation,²⁹ calls into question the feasibility of this plan to avoid construction of additional, harmful infrastructure. It is therefore unsurprising that only one year later in 2018, project proponents published an EIA Addendum, which covers construction of a new jetty and coal stockyard and construction of a new ash disposal area at an as-yet unidentified location.³⁰ The Addendum also updated the named project developer to PT Indo Raya Tenaga.³¹

While the project's due diligence documents downplay and leave largely unaddressed the question of land acquisition, the original EIA and the EIA Addendum both acknowledge that the project includes land acquisition. The EIA identified the land use prior to the project as including housing, public facilities, green open space and a protected area.³² The EIA Addendum notes that land needed for the new ash disposal area will be acquired from private

²³ See Seulki Lee, Eco-Business; Shin Dong-yoon and Kim Ji-yoon, *S. Korean Government Continues Investing in Overseas Coal Project*, KCIJ Newstapa (13 July 2021), available at: <https://newstapa.org/article/Xi1j-?lang=eng> (last accessed May 2023).

²⁴ Thomson Reuters, *PT Indo Raya Tenaga Prices US\$700M Term Loan*, attached as Annex 2.

²⁵ PT Indonesia Power, *Environmental Impact Analysis: Plan to Build the Suralaya Power Plant Unit 9-10 (2 x 1000 MW) and its Supporting Facilities*, § 1.1.3.3(2)(A)(1)(a) Coal (2017) [hereinafter, "EIA"].

²⁶ *Id.* at § 1.1 Summary Description of Business Plan and/or Activities and Table 1.1 Breakdown of Land Use.

²⁷ See *id.* at §§ 1.1.3.3(2)(A)(1)(a) Coal and 1.1.3.3(2)(E)(c) Ash Disposal Area.

²⁸ *Id.* at § 1.1.3.3(2)(A)(1)(a) Coal.

²⁹ *Id.* at § 1.1.3.3(2)(E)(c) Ash Disposal Area.

³⁰ PT Indo Raya Tenaga, *Addendum to the Environmental Impact Analysis and Environmental Management and Monitoring Plans: Land Preparation and Construction of the Suralaya Power Plant Unit 9-10 (2 x 1000 MW)*, § 1.2 Consideration of Proposed Changes to Environmental Permits and Table 1.1 Description of Business and/or Activities Changes Summary (2018) [hereinafter, "EIA Addendum"].

³¹ *Id.*

³² EIA at §§ 1.1.2 Conformity of the Location of the Business Plan and/or Activity with the Spatial Plan and 1.1.3.1(2) Land Acquisition; see also EIA Framework at §§ 2.1.1 Status of the AMDAL Study and 2.1.2 Suitability of Business and/or Activity Plan Location with Spatial Planning.

owners, but does not include any analysis of current land use for any of the four alternative plots of land mentioned in the document.³³

B. Project impacts

Java 9 and 10 will exacerbate a situation that is already dire for local residents. The project is being constructed in close proximity to a residential area housing around 6,500 families. They will bear the brunt of the local impacts, while the toxic air pollution will impact the health of residents throughout Banten Province and beyond. Modeling by Greenpeace suggests that the new units will cause between 2,400 and 7,300 premature deaths over a 30-year lifespan.³⁴ More than two thirds of these fatalities will be the result of diseases caused by PM_{2.5} air pollution.³⁵

Land acquisitions for the project began before many residents had concrete information about the project.³⁶ Complainants and other local community members describe finding out that locals would be evicted through informal channels, such as social media, rather than through formal consultations.³⁷ The project has already displaced residents of a company housing complex, without appropriate information or notice being provided.³⁸ One complainant lived with his parents in that complex, which was built close to the power station so that employees who operated the plant could be on standby when needed. His family had purchased the house from the company in installments and lived there for many years. While he first heard about possible evictions in early 2016, the information was unclear. When the decision was finally communicated clearly, the company was uncompromising, and many residents felt they had to agree to the terms because they feared losing their jobs. Compensation received by those who have been evicted is not sufficient to purchase equivalent homes in the area.³⁹

The project's negative impact on local livelihoods and wellbeing is already being felt. Construction, which is already 70-80% completed, entirely destroyed Kelapa Tujuh beach, affecting the livelihoods of residents who used to earn a living selling food and services to beachgoers and eliminating an important recreation site for the community.⁴⁰ The EIA Framework noted that mosques, clinics and an integrated healthcare center in Kelapa Tujuh beach would also be leveled as a result of the project.⁴¹

Fisherfolk who used to fish from the beach have also been negatively affected by the land acquisition and construction of the project, which took the only remaining area from which they

³³ See EIA Addendum at § 2.1.4.1(I) Land acquisition.

³⁴ Andreas Anhäuser, Minwoo Son, Aidan Farrow & Lauri Myllyvirta, *Health Impacts of Units 9-10 of the Jawa Coal-fired Power Plant in Banten, Indonesia*, Seoul: Greenpeace Southeast Asia, 7 (22 October 2019), available at: <https://www.greenpeace.to/greenpeace/?p=3262> (last accessed May 2023) [hereinafter, "Greenpeace Health Impacts report"].

³⁵ *Id.* at 11.

³⁶ Confidential complainant interviews. See also Adi Renaldi, China Dialogue.

³⁷ Confidential complainant interviews. See also confidential video from local community members.

³⁸ Confidential complainant interviews.

³⁹ *Id.*

⁴⁰ *Id.* See also confidential video from local community members; Della Syahni, Mongabay; Seulki Lee, Eco-Business.

⁴¹ EIA Framework at § 2.1.3.2(3) Land Preparation.

could fish from the shore.⁴² Although a small harbor has been built adjacent to the project site, apparently to mitigate this impact,⁴³ fisherfolk are now forced to use boats to catch fish far from the shore, which creates additional expenses, and they fear that the project will also negatively impact their already dwindling catch.⁴⁴



Before start of Java 9 and 10 construction (June 2016).



Initial construction of Java 9 and 10 (August 2017).

⁴² Confidential complainant interview.

⁴³ See EIA Addendum at § 4.2.1.9(E) Management that has been done.

⁴⁴ Confidential complainant interview.



Partial construction of Java 9 and 10 (July 2023).

Construction has included partially leveling Kahal Hill, which is an old, sacred site, where the graves of ancestors of the original inhabitants of the area are located, and a local legend says that destroying the hill would cause a curse. Local residents no longer have any access to the site because of the project.

The company used explosives to level Kahal Hill and prepare the land for construction, resulting in noise and dust for nearby residents.⁴⁵ The homes of some local community members have been damaged by the blasting, but the company has done nothing to address or compensate for the damage.

⁴⁵ Adi Renaldi, China Dialogue; *see also* Trend Asia report at 17.



Blasting damage that occurred in 2017 at the start of Java 9 and 10 construction (2021).

Affected community members lack important information about the full scope of the impacts to come.⁴⁶ For example, at a community meeting with the company in 2019, a year after publication of the EIA Addendum which was meant, in part, to address the need to build a separate ash disposal area, a local resident asked for more information about plans to dispose of waste in his neighborhood, but was told that no decision had been made about waste disposal.⁴⁷ Community members were not consulted during the planning process for the project.⁴⁸

Many community members are concerned about the negative impacts of Java 9 and 10. As one local resident said: “There is so much less fish around the power plant and there is a long line at the hospital because people have skin and respiratory diseases. We really need to stop these new power plants.”⁴⁹ However, local residents who oppose the project face serious retaliation risks if they speak out. It is common practice in the area for companies to send “thugs” to intimidate those who speak out, and violence or threats of serious violence – such as threats to burn down an individual’s home – are common. It is impossible to trace these threats to the company, but it is widely believed they are behind this type of intimidation. Locals also fear that there are many

⁴⁶ Confidential complainant interviews.

⁴⁷ Della Syahni, Mongabay.

⁴⁸ Confidential complainant interviews. *See also* Seulki Lee, Eco-Business.

⁴⁹ Kate Geary, Liane Schalatek & Ryan Brightwell, *Putting People and Planet at the Heart of Green Equity*, Recourse, Heinrich Böll Stiftung Washington, DC, Banktrack, Centre for Financial Accountability & Trend Asia, 23 (14 October 2021, updated April 2022), available at: <https://www.re-course.org/old/reports/putting-people-and-planet-at-the-heart-of-green-equity/> (last accessed May 2023).

spies working for the company and security forces, and it is hard to know who to trust. Special military units or local police come into communities and ask questions, and workers experience retaliation for raising complaints. Many community members either work for the coal company or have family members who do, and fears that they will lose their jobs or be demoted are widespread.

C. Opposition to the project

Despite these risks, many local residents have spoken out about the project in the media⁵⁰ and campaigns against the project have attracted significant attention. For example, more than 17,000 people signed Clean Indonesia's online petition, written in Bahasa and describing the impacts on local residents in Banten.⁵¹ Additionally, in early 2020, concerned local residents organized to form the People's Forum for the Environment (Formapel) and stage protests against the project. In October 2020, despite police attempts to prevent demonstrations, reportedly due to the pandemic, a small demonstration against construction of Java 9 and 10 took place, with participants from three affected villages calling for the project to be stopped.⁵² Local residents have also participated in various protests targeting Korean financing for the project.



Environmental organizations, students and residents of Cilegon staged a sympathetic action condemning South Korean President Moon Jae-In, Cilegon, Banten (July 2020).

⁵⁰ See Seulki Lee, Eco-Business; Della Syahni, Mongabay; Adi Renaldi, China Dialogue.

⁵¹ Change.org petition: *Tolak Pembangunan PLTU 9 & 10, Selamatkan Banten dari Ancaman Debu Beracun*, available at:

<https://www.change.org/p/jokowi-tolak-pembangunan-pltu-9-10-biarkanbantenbernapas?redirect=false> (last accessed May 2023).

⁵² Della Syahni, Mongabay.

In addition to local protests, the project has also faced significant legal resistance in both Indonesia and South Korea. In August 2019, three local Banten residents petitioned the South Korean Prime Minister and the Chairman of the Korean National Climate and Clean Air Council to cancel South Korean financial support for the project. The same residents, along with South Korean organization Solutions for our Climate, also filed a lawsuit in the Central Korean court seeking a preliminary injunction against South Korean public financial institutions.⁵³

Separately, in November 2020, Friends of the Earth Indonesia (WALHI) and other Indonesian civil society organizations filed a lawsuit in Indonesia, based on the project's March 2017 environmental permit, regarding the environmental and public health impacts of the project, as well as its lack of compliance with Indonesia's 2019 emission standards.⁵⁴ Prior to filing the lawsuit, WALHI had already submitted an objection letter regarding the environmental permit to the Governor of Banten and submitted an administrative appeal to the President. Neither official ever responded.

In the course of the lawsuit, WALHI eventually learned that a new environmental permit had been issued in October 2018, but the Banten governor refused to disclose the latest permit in court and the judge did not require disclosure, even though the court had the authority to do so. Attempts to access the latest permit through a public information request to the Indonesian Investment Coordinating Board (BKPM RI) was also unsuccessful. These circumstances eventually forced WALHI to withdraw the lawsuit in February 2021.⁵⁵

In February 2022, complainant organization PENA Masyarakat, along with local residents, made a second attempt to obtain the updated permit through a public information request to BKPM RI, but they have not received a response. To date, neither complainants nor other Indonesian civil society organizations have access to the project's latest environmental permit.

II. IFC's exposure to the project and the broader context of the World Bank Group's investments in Indonesia

A. Description of IFC's exposure to the project through Hana Bank Indonesia

In September 2020, the IFC published its new *Approach to Greening Equity Investments in Financial Institutions*, which it had begun piloting in 2019.⁵⁶ First announced in 2018, the IFC's green equity approach was meant to help its financial intermediary clients increase climate-related lending and eliminate coal exposure – or reduce it to near zero – by 2030. The IFC's

⁵³ Seulki Lee, Eco-Business.

⁵⁴ Trend Asia, *Threatening Environment and Public Health WALHI Sues Java 9 & 10 Environmental Permit* (4 November 2020), available at: <https://trendasia.org/en/threatening-environment-and-public-health-walhi-sues-java-9-10-environmental-permit/> (last accessed May 2023).

⁵⁵ Trend Asia, *Banten Governor Hides Revision of Environmental Permit, WALHI Withdraws Lawsuit Against PLTU Jawa 9 and 10* (24 February 2021), available at: <https://trendasia.org/en/banten-governor-hides-revision-of-environmental-permit-walhi-withdraws-lawsuit-against-pltu-jawa-9-and10/> (last accessed May 2023).

⁵⁶ IFC Financial Institutions Group, *IFC's Approach to Greening Equity Investments in Financial Institutions* (September 2020), available at: <https://www.ifc.org/wps/wcm/connect/05541643-0001-467d-883c-5d7a127ffd57/IFC+Greening+Report+Sept+2020.pdf?MOD=AJPERES&CVID=nisvaOC&ContentCache=NONE&CACHE=NONE> (last accessed May 2023) [hereinafter, "IFC GEA"].

commitment to end equity investments in financial institutions that did not have a plan to phase out coal and coal-related investments was welcomed by civil society organizations around the world.⁵⁷ It was therefore particularly disappointing to learn that Hana Bank Indonesia, provided project finance for the Java 9 and 10 coal project *after* becoming IFC's first client to pilot the Green Equity Approach.

IFC has a longstanding relationship with Hana Bank Indonesia, having provided \$5 million in equity in 2007 to help Hana Bank Korea set up Hana Bank Indonesia.⁵⁸ IFC then provided loans to Hana Bank Indonesia in 2009 and 2013,⁵⁹ before making a second equity investment in May 2019.⁶⁰ IFC selected this \$15.36 million equity investment to pilot its green equity approach, an important choice given that Indonesia has rapidly rising coal-related emissions, while also being highly vulnerable to climate change.

In July 2020, Hana Bank Indonesia joined a consortium of other banks, including Hana Bank Korea, in providing project finance to PT Indo Raya Tenaga for development of Java 9 and 10.⁶¹ Hana Bank Indonesia participated in two tranches: \$6 million for Tranche 3 and \$50 million for Tranche 5.⁶² The loan term extends until 2035.⁶³ Despite the fact that Hana Bank Indonesia had been piloting the IFC's green equity approach for more than a year before investing in Java 9 and 10, we believe that IFC was not aware of this deal at the time, and in fact only learned of it a few months later when civil society organizations brought it to IFC's attention.

B. The broader context of the World Bank Group's energy investments in Indonesia

At the same time as Java 9 and 10 are being constructed with financing from an IFC client, other World Bank Group loans to decommission Indonesian coal plans are in the pipeline. As part of a new Energy Transition Mechanism (ETM) to support Indonesia's transition away from coal, the Asian Development Bank (ADB) has proposed to loan \$300 million to Indonesia's state energy company PLN to pilot the retirement of coal power plants.⁶⁴ Project documents suggest that the

⁵⁷ See Inclusive Development International, *Saying no to coal: IFC's new Green Equity Approach Unveiled* (17 September 2020), available at: <https://www.inclusivedevelopment.net/ifc-campaigns/saying-no-to-coal-ifcs-new-green-equity-approach-unveiled/> (last accessed May 2023).

⁵⁸ IFC also has a long history with Hana Financial Group dating back to 1971, and was instrumental in Hana's expansion into Indonesia. See Kate Geary & Ceren Temizyürek, *Coming clean: Can the IFC help end coal finance?*, Recourse, Trend Asia, Philippine Movement for Climate Justice & Korea Sustainability Investing Forum, 7-8 (7 October 2020), available at: https://re-course.org/old/wp-content/uploads/2020/10/Coming-clean-Can-the-IFC-help-end-coal-finance_FINAL-compressed.pdf (last accessed May 2023) [hereinafter, "*Coming clean*"]. We also understand that IFC's relationship with Hana Korea has been important in Hana Korea's decision to exit coal financing.

⁵⁹ *Id.* at 7.

⁶⁰ IFC Summary of Investment Information: KEB Hana Indonesia Rights Issue IV, available at: <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv> (last accessed May 2023) [hereinafter, "IFC SII: Hana Indonesia"].

⁶¹ See Annex 2 Term Loan.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Asian Development Bank, Project Data Sheet: Indonesia: Accelerating Indonesia's Clean Energy Transition Program – Phase 1, Sovereign Project 56140-001, available at: <https://www.adb.org/projects/56140-001/main#project-pds> (last accessed May 2023).

World Bank and ADB are both expected to provide future loans in support of the ETM, while further financing for the operationalization of the plan will come from the Climate Investment Funds (involving support from the World Bank, IFC and ADB).⁶⁵

Two of the coal power plants that have been identified as top priorities for decommissioning are Suralaya units 1 and 2. Units 5, 6 and 7 have also been identified as potential targets for decommissioning by 2030 in the ETM, albeit at a lower priority than units 1 and 2. Notably, all of these coal power plants were originally financed by the World Bank between 1979 and 1992.⁶⁶ Indeed, the World Bank, alongside the ADB, provided substantial support for nearly all of the existing units of the Suralaya Complex, resulting in devastating harm to the local community for decades to come and which continues today.

III. IFC's investment in Hana Bank Indonesia violates its Sustainability Framework and undermines its Green Equity Approach

IFC's 2019 equity investment in Hana Bank Indonesia is subject to the 2012 IFC Sustainability Framework, including the Policy on Environmental and Social Sustainability (IFC Sustainability Policy) and the Performance Standards (IFC PS), as well as other relevant policies and standards, such as the Environmental, Health and Safety (EHS) Guidelines for Thermal Power Plants.

These policies require both IFC and Hana Bank Indonesia to take steps to avoid, mitigate and manage the social and environmental risks posed by high-risk projects such as Java 9 and 10. Moreover, if IFC and its client cannot assure themselves that an investment in a high-risk project such as Java 9 and 10 will meet the requirements of the IFC PS within a reasonable period of time, they should not make that investment.⁶⁷

⁶⁵ See Fiscal Policy Agency, Ministry of Finance, Republic of Indonesia, *CIF Accelerating Coal Transition (ACT): Indonesia Country Investment Plan (IP): Draft for Public Consultation* (3 October 2022), available at: https://fiskal.kemenkeu.go.id/docs/CIF-INDONESIA_ACT_IP-Proposal.pdf (last accessed May 2023); Climate Investment Funds, *Intersessional Meeting of the CTF Trust Fund Committee* (25-26 October 2022), available at: https://cif.org/sites/cif_enc/files/meeting-documents/CTF_TFC_IS_3_04_Indonesia_ACT_IP.pdf (last accessed May 2023).

⁶⁶ The World Bank loaned PLN \$175 million for the construction of Suralaya 1 in 1979; \$253 million for Suralaya 2 in 1980; \$210 million in 1984 for the construction of Suralaya units 3 and 4; and \$423.6 million in 1992 for the construction of units 5, 6 and 7. ADB also provided a loan of \$139 million for the construction of extra high voltage lines to connect to the Suralaya Complex. See respectively: The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan to the Republic of Indonesia for an Eight Power Project* (14 May 1979), available at: <https://documents1.worldbank.org/curated/en/867711468285888487/pdf/multi-page.pdf> (last accessed May 2023); The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan to the Republic of Indonesia for a Ninth Power Project* (23 May 1980), available at: <https://documents1.worldbank.org/curated/en/381801468269093471/pdf/multi-page.pdf> (last accessed May 2023); The World Bank, *Report and Recommendation of the President of the International Bank for Reconstruction and Development to the Executive Directors on a Proposed Loan in an Amount Equivalent to US\$210.0 Million to the Republic of Indonesia for the Fourteenth Power Project* (25 May 1984), available at: <https://documents1.worldbank.org/curated/en/833141468253775659/pdf/multi-page.pdf> (last accessed May 2023).

⁶⁷ See IFC, International Finance Corporation's Policy on Environmental and Social Sustainability, ¶ 22 (1 January 2012), available at: https://www.ifc.org/wps/wcm/connect/7141585d-c6fa-490b-a812-2ba87245115b/SP_English_2012.pdf?MOD=AJPERES&CVID=kiIrw0g (last accessed May 2023) [hereinafter, "IFC Sustainability Policy"].

Additionally, as explained above, IFC also chose this investment to pilot its new Green Equity Approach. As a Green Equity Approach client, Hana Bank Indonesia should have a plan to phase out coal investments, reducing its coal exposure by 50% by 2025 and eliminating coal exposure – or reducing it to near zero – by 2030.⁶⁸ Taken collectively, this framework is difficult, if not impossible, to reconcile with any new investment in a mega coal plant such as Java 9 and 10, given the project loan term will run to 2035.⁶⁹

A. IFC’s favorable public disclosures and lack of knowledge of Hana Bank Indonesia’s investment in Java 9 and 10 call into question its due diligence and supervision

IFC categorized its 2019 investment in Hana Bank Indonesia as FI-2 or “medium risk,”⁷⁰ which includes clients with “a very limited number of business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.”⁷¹ At the time of IFC’s 2019 investment, Hana Bank Indonesia was an existing IFC client with what IFC called “a satisfactory environmental and social management system (ESMS)” in place.⁷² Yet this unqualified, positive assessment of Hana Bank Indonesia’s ESMS is at odds with the bank’s own self-assessment two years later, in its 2021 Sustainability Report, which notes challenges related to both its debtors and its staff in fully implementing the ESMS.⁷³

⁶⁸ IFC GEA at 5.

⁶⁹ We also note, in this regard, that IFC’s investment in Hana Bank Indonesia presents some of the same tensions between IFC’s environmental and social requirements and the bank’s business model that the CAO described in its compliance report regarding IFC’s investments in Rizal Commercial Banking Corporation, namely that Hana Bank Indonesia participates in syndicated lending with other lenders who may not apply similar environmental and social requirements, and Hana Bank Indonesia is operating in a market that may be resistant to and unfamiliar with the IFC PS. See CAO, *Compliance Investigation Report: IFC Investments in Rizal Commercial Banking Corporation (RCBC), The Philippines*, 42 (19 November 2021), available at: https://www.cao-ombudsman.org/sites/default/files/downloads/CAO%20Compliance%20Investigation_RCBC-01_Philippines_Nov%202021.pdf (last accessed July 2023) [hereinafter, “RCBC Compliance Report”]. See also Annex 2 Term Loan; Hana Bank, *Responsible Financing Leading to Sustainability*, 2021 Sustainability Report, 18 (2021) (noting that the bank faces “objections from debtors regarding the implementation of ESMS and low comprehension of Bank personnel who are responsible for conduct[ing] the due diligence assessment”), available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjzgaK4tZLAhWsgv0HHRDrBAQQFnoECCMQAQ&url=https%3A%2F%2Fwww.hanabank.co.id%2Fdownload%2F3803&usg=AOvVaw1z2_uFWq65QWi8cjrvmMgI (last accessed May 2023) [hereinafter, “2021 Sustainability Report”]. That being said, even if it lacked leverage, Hana Bank Indonesia should have screened the project against the Performance Standards and chosen not to invest, given the project’s clear lack of compliance. See IFC Environment, Social and Governance Department, *Environmental and Social Review Procedures Manual 7 Financial Intermediary Investments: Early Review and Appraisal*, Version 5, § 3.2.2 PSs Application (11 July 2014), available at: https://www.ifc.org/wps/wcm/connect/6f3c3893-c196-43b4-aa16-f0b4c82c326e/ESRP_Oct2016.pdf?MOD=AJPERES&CVID=IRwoQFr (last accessed May 2023) [hereinafter, “IFC ESRP 7”].

⁷⁰ IFC SII: Hana Indonesia.

⁷¹ IFC Sustainability Policy at ¶ 40.

⁷² IFC SII: Hana Indonesia.

⁷³ See 2021 Sustainability Report at 18.

This contradiction calls into question whether IFC properly evaluated Hana Bank Indonesia's staff capacity in the first place.⁷⁴

IFC's disclosures with regard to Hana Bank Indonesia's exposure to high-risk projects were also problematic. According to IFC's public disclosures for the project, the bank's key sectors were construction and real estate, trade, rubber and plastic manufacturing and transportation, and its portfolio at the time had only four projects subject to the IFC PS, none of which exposed the IFC to significant environmental and social risks.⁷⁵ Moreover, IFC predicted that the "possibility for exposures to such projects is very limited," given the bank's focus on small and medium enterprises.⁷⁶ On that basis, IFC determined that no environmental and social action plan (ESAP) was required and did not publish any specific mitigation measures related to its investment. IFC's public disclosures for its 2019 investment in Hana Bank Indonesia recognize the bank's total, portfolio-wide exposure to coal-related projects⁷⁷ – in line with the commitments set out in IFC's Green Equity Approach – but do not otherwise indicate anything about the environmental and social risks and impacts related to these investments. The overall impression given by IFC's public disclosures is that Hana Bank Indonesia has minimal coal-related investments and no investments that cause any significant environmental and social risks.

Yet IFC's statements about the environmental and social risks posed by Hana Bank Indonesia are misleading at best. For example, one of the bank's investees at the time of IFC's 2019 investment was PT Toba Bara Sejahtera,⁷⁸ which operates three vast coal mines and is involved in construction of two coal plants, all projects that seem likely to expose both Hana Bank Indonesia and IFC to significant environmental and social risk.⁷⁹ On top of which, Toba Bara has also faced accusations of corruption and illegal mining practices.⁸⁰ Hana Bank Indonesia also has a longstanding banking relationship with PT Samindo Resources, an Indonesian coal mining and services company that, at the time of IFC's 2019 investment in Hana Bank Indonesia, was pursuing a coal mining acquisition plan,⁸¹ potentially increasing Hana Bank Indonesia and IFC's exposure to high-risk projects.

⁷⁴ See IFC ESRP 7 at § 3.4.3 Evaluation of the Client's E&S Risk Management Practices including its ESMS as well as Staff Capacity and Commitment against the Requirements of PS1 and § 3.4.4 Identification of E&S Risk Management and Staff Capacity Gaps (requiring IFC to fully evaluate an FI client's capacity and commitment to implementing its ESMS, identifying gaps and creating a plan and timeline to address such gaps).

⁷⁵ IFC SII: Hana Indonesia.

⁷⁶ *Id.*

⁷⁷ Specifically, within the Environmental & Social Management System section, IFC writes: "Update: The exposure to coal-related projects as reported by the client as of March 31, 2019 was 2.78% of its total portfolio; in 2019 (as of December 31, 2019) was 1.61% of its total portfolio; in 2020 (as of December 31, 2020) was 2.02% of its total portfolio, as of 31 December 2021 was 1.36% of its total portfolio; and in 2022 (as of 31 December 2022) was 2.06% of its total portfolio." *Id.*

⁷⁸ In November 2018, Hana Bank Indonesia participated in a syndicated loan of \$120 million to PT Toba Bara Sejahtera Tbk. Dustin Roasa, *Digging Deeper: Can the IFC's Green Equity Strategy Help End Indonesia's Dirty Coal Mines?*, Inclusive Development International, Bank Information Center Europe & Jaringan Advokasi Tambang (JATAM), 18 (April 2019), available at: <https://www.inclusivedevelopment.net/wp-content/uploads/2020/01/digging-deeper.pdf> (last accessed May 2023) [hereinafter, "*Digging Deeper*"].

⁷⁹ See *Coming clean* at 8.

⁸⁰ See *Digging Deeper* at 8-9.

⁸¹ *Id.* at 18.

We do not have access to the agreement between IFC and Hana Bank Indonesia, so we do not know if its terms and conditions were consistent with IFC policy. However, the 2012 Sustainability Policy, along with the IFC PS, impose detailed environmental and social risk mitigation obligations on both IFC and Hana Bank Indonesia. These include a requirement to apply the IFC PS to high-risk projects⁸² and provisions regarding environmental and social reporting, including notification of any material changes impacting on environmental and social risks.⁸³

Even if IFC's original public disclosures about the environmental and social risks posed by Hana Bank Indonesia were adequate, which we believe they were not, it should be clear that the 2,000 MW Java 9 and 10 coal plants pose extreme environmental and social risks, with inevitable and likely irreversible negative impacts. It is hard to imagine how this type of investment by Hana Bank Indonesia would not constitute a material change in its environmental and social risk profile, as compared to what IFC described in its public disclosures. We therefore would have expected IFC to upgrade its risk categorization of Hana Bank Indonesia to FI-1, as well as step up its supervision of Hana Bank Indonesia and its high-risk sub-projects.⁸⁴

Instead, we have reason to believe that Hana Bank Indonesia failed to notify IFC about this investment and that IFC's supervision failed to identify the bank's new exposure despite this being a project of the highest possible risk. When asked about its exposure to the Java 9 and 10 coal plants in September 2020, two months after Hana Bank Indonesia provided project financing, IFC was seemingly unaware that its client had made the investment. We also have ongoing concerns about the level of supervision IFC is exercising with regard to this incredibly risky sub-project. For example, at a recent meeting with IFC in April 2023 about the project, it was unclear whether IFC had reviewed the Java 9 and 10 EIA. The IFC's lack of knowledge about Hana Bank Indonesia's decision to provide project finance for Java 9 and 10 and its ongoing failure to assess the sub-project's compliance with the Performance Standards calls into serious question IFC's supervision of its client, as well as its client's adherence with requirements set forth in the Sustainability Policy.

B. There is no evidence that Hana Bank Indonesia effectively applied the IFC PS to its investment in Java 9 and 10

While we do not have access to the financing agreement between Hana Bank Indonesia and PT Indo Raya Tenaga, we have not seen any evidence that Hana Bank Indonesia required application of the IFC PS to the Java 9 and 10 coal plants.⁸⁵ In fact, as described in detail below, the situation on the ground is woefully short of compliance with a host of IFC PS requirements.

⁸² IFC Sustainability Policy at ¶ 35.

⁸³ *Id.* at ¶ 25.

⁸⁴ This is pertinent not only with regard to Java 9 and 10, but also for other projects such as the Obi Island nickel smelter, also supported by Hana Bank Indonesia, which requires the construction of a captive coal plant to power the smelter. *See, e.g.,* Ian Morse, *Coal-powered industrial parks test Indonesia's climate pledges – and China's too*, China Dialogue (30 March 2022), available at: <https://chinadialogue.net/en/energy/coal-powered-industrial-parks-test-indonesias-climate-pledges-and-chinas-too/> (last accessed July 2023).

⁸⁵ We note, in this regard, that IFC does not have a good track record of ensuring that its FI clients take appropriate steps to ensure that high-risk sub-projects are required to comply with the Performance Standards. *See, e.g., RCBC*

We acknowledge that Hana Bank Indonesia invested in the project in July 2020 as a relatively small participant in a large, syndicated loan, which may mean that its leverage was relatively limited. However, to the extent that it may have been unable, under those circumstances, to effectively ensure application of the IFC PS, it should have screened the project against the PS and declined to participate in the loan in the first place.⁸⁶

None of the project's available due diligence documents – the 2016 EIA Framework, 2017 EIA and Environmental Management and Monitoring Plans, or the 2018 EIA Addendum – make any mention of the IFC PS. They are instead largely limited to an assessment of the project against Indonesian standards and regulations, many of which are far less rigorous than the requirements of the IFC PS and EHS Guidelines.⁸⁷

PT Indo Raya Tenaga's English-language-only website makes some brief references to compliance with the IFC PS and EHS Guidelines, but offers no real assurance of these claims. For example, the page entitled Emission Control includes a chart favorably comparing the "expected emissions" of the Java 9 and 10 plant with the IFC EHS Thermal Power (2008) Standard.⁸⁸ However, the chart fails to capture the complexity and nuance of the IFC's standard, nor does it provide any analysis to support the assertion that Java 9 and 10's emissions will be well below the standard. Moreover, the EHS guidance specifically notes that "emissions levels for the design and operation of each project should be established through the [Environmental Assessment (EA)] process on the basis of country legislation *and the recommendations provided in this guidance document*, as applied to local conditions" and that the EIA needs to justify the emissions levels selection.⁸⁹ The Project's EIAs, however, fail to reference the EHS recommendations in any way.

Compliance Report at 6-7 (finding that IFC had not verified that RCBC was applying the Performance Standards as required). We fear that the same situation may be the case with Hana Bank Indonesia.

⁸⁶ See IFC ESRP 7 at § 3.2.2 PSs Application ("In cases where the FI's leverage is limited (e.g., secondary market transactions or syndicated loans where the FI's participation is below 25% of the total loan value), the FI will be required to screen such transactions against key objectives of the PSs and make a go or no go decision based on the results of this screening.").

⁸⁷ In such cases, the Performance Standards requires projects to achieve whichever requirements are more stringent; any exception requires a detailed, site-specific justification. IFC, Overview of Performance Standards on Environmental and Social Sustainability, ¶ 7 (1 January 2012), *available at*: https://www.ifc.org/wps/wcm/connect/8804e6fb-bd51-4822-92cf-3dfd8221be28/PS1_English_2012.pdf?MOD=AJPERES&CVID=jiVQIfc (last accessed May 2023) [hereinafter, "IFC PS Overview"]. Indonesia updated its emissions standards in 2019, although they are still less strict than many international standards. CREA report at 22. Moreover, we do not believe that the project is being held to these new standards. *See id.*

⁸⁸ PT Indo Raya Tenaga website: Emission Control: <https://www.irt.co.id/emission-control-2/> (last accessed July 2023).

⁸⁹ IFC, Environmental, Health, and Safety Guidelines for Thermal Power Plants, 18 (19 December 2008) (emphasis added), *available at*: https://www.ifc.org/wps/wcm/connect/f82a5f06-f3f7-4033-8ea6-b767523cda8e/FINAL_Thermal%2BPower.pdf?MOD=AJPERES&CVID=nPtjHmZ&id=1323162579734 (last accessed May 2023) [hereinafter, "IFC EHS Guidelines for Thermal Power Plants"].

C. The available EIA documents suffer from serious deficiencies

The available due diligence documents also fail to meet many of the basic requirements of a robust environmental and social impact assessment. The overall objective of IFC PS 1 is to improve the environmental and social performance of projects by identifying and evaluating environmental and social risks and impacts and then adopting a mitigation hierarchy that anticipates and avoids as many harmful impacts as possible, while minimizing, compensating for and/or offsetting those that remain.⁹⁰ The EIA documents for Java 9 and 10 do not meet this objective. The project information is scattered across several documents, the analysis of the environmental and social risks and impacts frequently lacks rigor and, despite the over-supply of electricity in the Java-Bali grid,⁹¹ there is no alternatives analysis whatsoever.⁹²

Considering the well-documented serious impacts of large coal-fired power plants such as Java 9 and 10, it is disturbing how little attention the EIA documents devote to risk analysis and mitigation. To give just one example, in stark contrast to the terrible air quality described and experienced by local community members and complainants, the 2017 EIA claims that the baseline air quality conditions are good and that the atmosphere is able to self-purify even as emissions increase, showing the “success” of the Suralaya Complex’s environmental management to date.⁹³ The EIA later makes reference to Greenpeace’s estimated premature mortality rate due to coal-fired power plants in Indonesia,⁹⁴ without any attempt to reconcile the contradictions between Greenpeace’s analysis and the EIA’s own conclusions about the successful management of emissions. In the next chapter’s assessment of potentially significant impacts, the EIA reaches the conclusion that all emissions will be within regulatory limits⁹⁵ and suggests an impact area of these emissions that entirely ignores the previously referenced Greenpeace modeling suggesting that such emissions will affect the health of residents as far away as Jakarta.⁹⁶ The analysis of related public health impacts that follows makes no attempt to quantify or even describe in detail what the impacts will be.⁹⁷ The Environmental Management Plan defines successful management of the public health impacts as ensuring that the morbidity rate for environmentally-related diseases should not double over any review period⁹⁸ – a definition that would still categorize a fairly significant uptick of respiratory or related diseases over time as a ‘success’.

⁹⁰ See IFC, Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts, Objectives (1 January 2012), available at: https://www.ifc.org/wps/wcm/connect/8804e6fb-bd51-4822-92cf-3dfd8221be28/PS1_English_2012.pdf?MOD=AJPERES&CVID=jiVQIfc (last accessed May 2023) [hereinafter, “IFC PS 1”].

⁹¹ See Trend Asia report at 11. See also, Della Syahni, Mongabay.

⁹² See IFC PS 1 at ¶ 11 and n.11 (explaining circumstances that require an alternatives analysis).

⁹³ EIA at § 2.1.2(D)(1) Ambient Air Quality.

⁹⁴ EIA at § 2.1.5(B)(2) Health Impacts Caused by PLTU Activities.

⁹⁵ EIA at § 3.2.1 Air Quality Decline.

⁹⁶ See, generally, Greenpeace report. See also CREA report.

⁹⁷ EIA at § 3.2.6 Public Health Disorders.

⁹⁸ PT Indonesia Power, *Environmental Management Plan & Environmental Monitoring Plan: Plan to Build the Suralaya Power Plant Unit 9-10 (2 x 1,000 MW) and its Supporting Facilities*, Table 2.1 Environmental Management Plan Matrix, Operation Stage, No. 6 Public Health Disorders (2017) [hereinafter, “Environmental Management and Monitoring Plans”].

Taken as a whole, the available EIA documents fail to achieve the overarching objectives of the Performance Standards. As described below, the company never shared these EIA documents with community complainants,⁹⁹ but even if they had, the documents would not have allowed complainants to fully understand the risks posed by the project being developed or provided adequate assurance the impacts would be appropriately managed.

D. Assessment of cumulative impacts is woefully inadequate

As described in detail above, complainants are already living in a tremendously hazardous environment due to the eight existing units of the Suralaya Complex, as well as dozens of other nearby coal plants and polluting industries. Adding a new, and entirely unnecessary, 2,000 MW coal project to the mix should require, at minimum, a comprehensive analysis of the cumulative impacts of the project on the already-stressed local environment and population. IFC PS 1 requires an assessment of a project's cumulative impacts, and the Guidance Note specifically flags that "in situations where multiple projects occur in...the same geographic area, it may also be appropriate for the client to conduct a Cumulative Impact Assessment (CIA) as part of the risks and impacts identification process."¹⁰⁰

The Java 9 and 10 EIA's assessment of cumulative impacts is limited at best. It notes that the project will cause impacts on air quality, seawater quality and hazardous waste that are cumulative of the other units in the Suralaya Complex,¹⁰¹ but makes no attempt to truly assess those impacts. The analysis is largely limited to a description of how the other units in the Suralaya Complex operate, along with a statement that their environmental controls largely meet regulatory requirements.¹⁰² Cumulative public health or livelihood impacts are not mentioned at all. There is no question that the EIA fails to comply with the IFC PS in this regard.

E. Community consultations have been incomplete and undermined by transparency failures and intimidation

Alongside identifying and mitigating environmental and social risks, the other overarching objective of IFC PS 1 is to ensure effective and ongoing engagement with affected communities and other stakeholders. This includes disclosure and dissemination of relevant environmental and social information about a project, as well as appropriately managing grievances.¹⁰³ Given the very serious impacts associated with a mega coal project such as Java 9 and 10, IFC PS 1 requires an Informed Consultation and Participation process, involving:

[...] a more in-depth exchange of views and information, and an organized and iterative consultation, leading to the client's incorporating into their decision-making process the view of the Affected Communities on matters that affect them directly, such as the

⁹⁹ Confidential complainant interviews.

¹⁰⁰ IFC Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts, ¶ GN38 (1 January 2012, updated 14 June 2021), *available at*: https://www.ifc.org/wps/wcm/connect/6df1de8f-2a00-4d11-a07c-c09b038f947b/GN1_English_06142021_FINAL.pdf?MOD=AJPERES&CVID=nXqn5Ts (last accessed May 2023).

¹⁰¹ See EIA at § 2.2 Business and/or Activities that Exist Around the Location of the Business and/or Activity Plan.

¹⁰² See *id.*

¹⁰³ IFC PS 1, Objectives.

proposed mitigation measures, the sharing of development benefits and opportunities, and implementation issues [...] ¹⁰⁴

It also requires the establishment of a grievance mechanism to resolve communities' concerns without retribution, ¹⁰⁵ and ongoing reporting to affected communities about impacts, mitigation measures and/or grievances. ¹⁰⁶ IFC PS 2 similarly requires an accessible and non-retaliatory grievance mechanism for workers, ¹⁰⁷ and IFC PS 5 includes additional consultation and grievance mechanism requirements in the context of economic and physical displacement. ¹⁰⁸

In stark contrast to these requirements, complainants and other affected community members, including those who work in the Suralaya Complex, lack information about the environmental and social impacts of the project and face serious intimidation for raising concerns. ¹⁰⁹ Community complainants report that “the company doesn’t communicate with the community,” and that they have little to no formal information about the project’s risks or any of the company’s plans to mitigate or compensate for harm. ¹¹⁰

The EIA Framework describes only two public consultations about the project, held on October 6-7, 2016. ¹¹¹ The brief summary of public comments suggests that those who attended expressed concerns about use of local labor, economic displacement and health impacts, ¹¹² yet the Environmental Management Plan does little to specifically address these concerns. Moreover, even several years after publication of the EIA, local residents are unable to get complete information about the project when they attend meetings with the company. ¹¹³

PT Indo Raya Tenaga’s website claims that the company has been carrying out “socialization” of the project since 2017, to ensure that affected people have an in-depth understanding of the project. ¹¹⁴ Community complainants’ lived experience, however, contradicts these assertions. Several community complainants report that they were unaware of any public consultation meetings about the project, and one complainant reports that attendance at the consultation meeting was limited to the neighborhood leaders, who did not communicate the results to the rest of the community. ¹¹⁵

¹⁰⁴ *Id.* at ¶ 31.

¹⁰⁵ *Id.* at ¶ 35.

¹⁰⁶ *Id.* at ¶ 36.

¹⁰⁷ See IFC, Performance Standard 2: Labor and Working Conditions, ¶ 13 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-2-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 2”].

¹⁰⁸ See IFC, Performance Standard 5: Land Acquisition and Involuntary Resettlement, ¶¶ 10 & n.16, 11 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-5-en.pdf> (last accessed September 2023) [hereinafter, “IFC PS 5”].

¹⁰⁹ Confidential complainant interviews.

¹¹⁰ Confidential complainant interviews.

¹¹¹ EIA Framework at § 2.2 Results of Community Engagement.

¹¹² *Id.*; *see also id.* at § 2.2.1.4(D) Public Perception.

¹¹³ Confidential complainant interviews. *See also* Della Syahni, Mongabay.

¹¹⁴ PT Indo Raya Tenaga website: Stakeholders Management Plan: <https://www.irt.co.id/stakeholders-engagement/> (last accessed September 2023).

¹¹⁵ Confidential complainant interviews.

There are also no appropriate mechanisms to raise concerns about the project. Community complainants report that even people who have suffered direct harm from construction activities, such as cracks in their homes due to blasting, do not know where to complain and have not received any compensation or other remedy.¹¹⁶ PT Indo Raya Tenaga's website, which is only available in English, has an online grievance form, but it requires a person to disclose their full name, identification number, gender, phone number, email address and location.¹¹⁷ While a complainant can tick a box indicating that they want to raise a grievance anonymously and/or request that their identity be kept confidential, there is no information about how this information will be safeguarded and selecting these options does not remove the requirement that a complainant disclose all the above-listed information. Community complainants have requested confidentiality in the CAO process precisely because they fear retaliation against themselves and/or their family members for filing this complaint. Workers report that they are also unable to raise complaints about working conditions for fear of being fired. Similarly, as described below, many families who received eviction notices experienced intimidation. Under these circumstances, even if complainants or other community members knew about and could access the company's English-only grievance form, they would likely not feel comfortable doing so.

In this context, it is impossible to determine that the project benefits from the type of Broad Community Support required by the IFC's Sustainability Policy,¹¹⁸ despite assertions in the EIA documents and on the company's website that the public is overwhelmingly in favor of the project. Nor is there any evidence that IFC, or Hana Bank Indonesia, took steps to investigate and ensure themselves that PT Indo Raya Tenaga had undertaken an Informed Consultation and Participation process compliant with the Sustainability Policy requirements.

F. Failures to Fully Assess and Mitigate Environmental and Health Hazards, including Climate Impacts

Taken together, IFC PS 3 (Resource efficiency and pollution prevention), PS 4 (Community health, safety and security) and PS 6 (Biodiversity, conservation and sustainable management of living natural resources) require clients to avoid and reduce harm to the natural environment and associated impacts on community health and livelihoods. Clients must use the best resource efficiency and pollution prevention techniques feasible for the project,¹¹⁹ including with regard to GHG emissions,¹²⁰ and must follow good international industry practice to avoid or minimize impacts on community health and safety.¹²¹ Additionally, project impacts on priority ecosystem

¹¹⁶ Confidential complainant interviews.

¹¹⁷ PT Indo Raya Tenaga website: Grievance Form: <https://www.irt.co.id/2019/10/grievance/> (last accessed September 2023).

¹¹⁸ See IFC Sustainability Policy at ¶ 30.

¹¹⁹ IFC, Performance Standard 3: Resource Efficiency and Pollution Prevention, ¶¶ 4-5 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-3-en.pdf> (last accessed September 2023) [hereinafter, "IFC PS 3"].

¹²⁰ *Id.* at ¶ 7.

¹²¹ IFC, Performance Standard 4: Community Health, Safety, and Security, ¶ 5 (1 January 2012), *available at*: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-4-en.pdf> (last accessed September 2023) [hereinafter, "IFC PS 4"].

services used by affected community members should be avoided or mitigated in a way that maintains the value and functionality for communities.¹²²

The publicly available EIA documents provide little assurance that the Java 9 and 10 project is compliant with any of these requirements. The following examples describe some of our most pressing concerns in this regard, although they do not capture all of the project's deficiencies.

a. Air pollution

Before Indonesia adopted new emissions standards in 2019, its air pollutant standards allowed 10-20 times more air pollution than many international standards.¹²³ Even the updated 2019 standards, which are a significant improvement over the old standards, are less stringent than standards for thermal power plants in China, India or the European Union, and Indonesia does not even require monitoring for mercury, despite its known dangers to public health.¹²⁴ The implications of these weak standards for human health are devastating. One recent study found that air pollution from already operational coal-fired power plants in Indonesia is responsible for an estimated 2,500 deaths each year in the greater Jakarta area alone, which does not include Cilegon City or other areas located in closer proximity to the plants.¹²⁵ Modeling by Greenpeace suggests that the new Java 9 and 10 units will cause between 2,400 and 7,300 premature deaths over a 30-year lifespan.¹²⁶

Yet, the EIA's assessment of the project's NO_x, SO₂ and PM emissions is limited to an analysis of their compliance with Indonesia's old emissions requirement, and it fails to analyze mercury emissions at all, because these are not regulated in Indonesia. As mentioned above, the assessment of emissions-related health impacts lacks any depth and makes no attempt to quantify the impacts. Moreover, the EIA's air quality baseline data, apparently taken from monitoring reports for existing Suralaya units,¹²⁷ lacks credibility, considering reports that the company's air quality monitoring is nonexistent.¹²⁸ Further, even if the monitoring locations are in place and fully operational, the EIA does not provide any detailed information about how or when or over what timeframe results were collected.¹²⁹ Finally, the conclusion that the existing air quality conditions are good and that the atmosphere is still able to "self-purify" is entirely at odds with the lived experience of complainants and other community members. In other words, the assessment of air pollution and its public health impacts is seriously deficient.

¹²² IFC, Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources, ¶¶ 24-25 (1 January 2012), available at: <https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-6-en.pdf> (last accessed September 2023) [hereinafter, "IFC PS 6"].

¹²³ CREA report at 21.

¹²⁴ *Id.* at 22.

¹²⁵ *Id.* at 23.

¹²⁶ Greenpeace Health Impacts report at 7.

¹²⁷ See EIA at § 2.1.2(D)(1) Ambient Air Quality.

¹²⁸ See Adi Renaldi, China Dialogue (noting that investigation of one claimed monitoring device on a nearby hill "revealed it to be a barrel of water and a sheet of cloth"); see also Trend Asia report at 18 (noting the absence of air quality monitoring at specific air pollution-prone points identified by the Cilegon City Department of Environment).

¹²⁹ See EIA at § 2.1.2(D)(1) Ambient Air Quality.

The air pollution mitigation measures described in the Environmental Management Plan include planting trees, doing routine maintenance and using technology such as an electrostatic precipitator and a seawater flue gas desulfurization (FGD) system.¹³⁰ There is no analysis, however, of the expected efficacy of the proposed mitigation measures, no discussion of other available mitigation technologies that are not being used, and no mention of potential risks of the identified mitigation measures. For instance, while FGD technology does significantly reduce SO₂ emissions, it can lead to other impacts not accounted for in the EIA, such as the discharge of mercury into the marine environment and the atmosphere.¹³¹ EHS Guidelines for power plants note that impacts on the marine environment of seawater FGD systems “need to be carefully examined.”¹³² Yet, despite the fact that community consultations revealed concerns about the project’s impact on the livelihoods of local fisherfolk,¹³³ the EIA does not so much as mention that the FGD system could have negative impacts on the marine environment. In fact, the EIA Framework claims that “the addition of these substances into seawater still has no effect on the balance of seawater.”¹³⁴

The complainants, who already live next to the most polluting industrial complex in all of Southeast Asia,¹³⁵ are left with no concrete idea what the air pollution impacts of the Java 9 and 10 project will be, and there is a significant risk that one of the main mitigation measures will exacerbate the project’s negative impacts on ecosystem services and related local livelihoods.

b. Toxic waste management and ash disposal

As mentioned above, local residents have already suffered from toxic dust storms, when wind blows large quantities of poorly managed toxic waste into residential areas.¹³⁶ Complainants are therefore concerned about the lack of information in the EIA regarding waste management, especially management of the ash disposal area. According to the EIA Framework and the 2017 EIA, the 15-hectare ash disposal area proposed for Java 9 and 10 would be at capacity in less than 2 years,¹³⁷ yet the EIA does not provide any details about how ash disposal will be managed after that point. The 2018 EIA Addendum identifies the need to construct a new ash disposal area on a separate site, referencing four possible locations,¹³⁸ but it fails to provide any in-depth analysis of any of the alternative sites. Moreover, neither the EIA nor the EIA Addendum provides any details about how the disposal area will be maintained or how fugitive emissions will be controlled. Overall, there is a significant lack of clarity regarding where the project’s toxic ash will be stored and how the surrounding environment and community will be protected from harm. In fact, one newspaper article reported that when a local resident sought more

¹³⁰ Environmental Management and Monitoring Plans, Table 2.1 Environmental Management Plan Matrix, Operation Stage, No. 1 Decline Air Quality.

¹³¹ See, e.g., Lumin Sun, Shanshan Lin, Lifeng Geng, Shuyuan Huang and Dongxing Yuan, *The distribution and sea-air transfer of volatile mercury in waste post-desulfurization seawater discharged from a coal-fired power plant*, Environmental Science and Pollution Research 20, 6191-6200 (2013).

¹³² IFC EHS Guidelines for Thermal Power Plants at 4.

¹³³ See EIA Framework at § 2.2.1.4(D) Public Perception and § 2.2 Results of Community Engagement.

¹³⁴ *Id.* at § 2.1.3.3(2)(F)(d) Waste Gas Emissions; see also *id.* at § 2.1.3.3(2)(F)(a) Wastewater.

¹³⁵ CREA report at 21.

¹³⁶ See Trend Asia report at 7.

¹³⁷ EIA Framework at § 2.1.3.3(2)(E)(c) Ash Disposal Area; EIA at § 1.1.3.3(2)(E)(c) Ash Disposal Area.

¹³⁸ See, e.g., EIA Addendum at § 1.2 Consideration of Proposed Changes to Environmental Permits and § 2.1.4.2(3) Construction of Supporting Infrastructure for Power Plant.

information about waste disposal at a company meeting in 2019, he was told that decisions about waste disposal had not yet been made.¹³⁹

Ash disposal areas carry major environmental and community health risks, yet the EIA documents provide no information about the standards that will be used for the disposal area. Moreover, given that the location of the project is in an area with both earthquake and tsunami risks, the due diligence documents should have assessed the risks associated with a breach of the disposal area, which could be catastrophic. Yet, while the EIA notes that the project is in an Earthquake Hazard Area with related tsunami risks, it makes no attempt to analyze any risks associated with earthquakes and claims that the specific project location is outside the tsunami risk zone.¹⁴⁰ There is no publicly available information to suggest that the project has appropriately assessed and mitigated against risks associated with day-to-day management of ash and other toxic waste, not to mention the risks associated with potential natural disasters.

c. Seawater quality and marine life

Impacts on the marine environment from the Suralaya Complex and other industry in the area are already taking a serious toll. In fact, all of the EIA documents note that the coral reefs in the area, which are tourist attractions and support fishing activities, are declining in quality and face numerous threats, including threats related to seawater pollution and the temperature of waste water being discharged into the sea from existing power plants.¹⁴¹ Complainants and other community members note that traditional fishing livelihoods have already been negatively affected by this situation, and they fear that these impacts will worsen with the operation of Java 9 and 10. Yet, although the EIA documents paint a fairly bleak picture of the environmental degradation already present in the marine surroundings, they nonetheless fail to rigorously assess the impacts of Java 9 and 10 on seawater quality, marine life or fishing livelihoods.

For instance, although the EIA identifies seawater temperature increase as a significant negative impact of the project, it claims, without any rigorous analysis, that the 5-7 degree Celsius difference in temperature between the natural seawater and the water discharged is still “within the tolerance level of aquatic life.”¹⁴² The EIA does not include any assessment of different discharge options or alternative cooling systems. Given that even slightly increased temperatures can cause significant impacts on complex aquatic systems, the EIA’s mere assertion that aquatic life will be able to tolerate the temperature difference falls far short of complying with IFC Performance Standards nor the EHS Guidelines for Thermal Power Plants.¹⁴³

Relatedly, the EIA also fails to account for numerous potential negative impacts on seawater quality and marine life associated with coal transport. Coal for Java 9 and 10 will be transported

¹³⁹ Adi Renaldi, China Dialogue.

¹⁴⁰ See, e.g., EIA at § 1.1.3.3(2)(H) Disaster Emergency Response System and § 2.1.2(B) Geology.

¹⁴¹ See EIA Framework at § 2.2.1.3(b)(3) Coral Reefs; EIA at § 2.1.3(B)(4) Coral Reefs; EIA Addendum at § 3.1.4.3(1) Aquatic Biota.

¹⁴² See EIA at § 3.2.3 Disturbance of Aquatic Biota.

¹⁴³ See IFC EHS Guidelines for Thermal Power Plants at 10 (explicitly requiring thermal discharge systems to be designed to present negative impacts and avoid endangering sensitive areas or significantly impacting breeding and feeding habits of local organisms).

from Sumatra and/or Kalimantan by ship or barge¹⁴⁴ and unloaded at the project's new jetty.¹⁴⁵ As mentioned above, there is a history in the area of coal barges causing serious negative impacts, including catching on fire and spilling coal and coal dust in the sea.¹⁴⁶ Complainants fear that pollution caused by coal barges contributes to the declining fisheries in the area, with subsequent impacts on local livelihoods. Yet, neither the EIA or EIA Addendum (which assesses impacts related to construction of the new jetty for coal transport) include any analysis of the risks or impacts associated with coal transport for the project, nor do they propose any mitigation measures.¹⁴⁷

Finally, the EIA Addendum's assessment of impacts related to construction of the new jetty leaves many questions unanswered. For instance, there is no detailed description of what construction of the jetty will entail, including whether dredging will be necessary and what the impacts of any dredging would be. The management plan for addressing damage to coastal ecosystems references "specialized studies" that still need to be performed and makes no attempt to assess the feasibility of "replacing" damaged ecosystems, which is one of its main mitigation measures.¹⁴⁸ Moreover, the document makes no attempt whatsoever to assess how damage to the coral reefs, seagrass and other marine life will impact fisheries and fishing livelihoods.

d. Elimination of green space and community recreation areas

The EIA Framework specifically acknowledges that the project will eliminate a green open space and a protected area, without providing details about the size or significance of either.¹⁴⁹ In fact, the EIA notes that the land use designation of the area has to be changed to accommodate the project.¹⁵⁰ The EIA Framework proposes to replace the lost green area of the hill being leveled by the project with a 4-hectare area in front of the already operational units of the Suralaya complex, but does not provide any further detail.¹⁵¹ Similarly, the EIA Framework acknowledges that the project will destroy public and social facilities at Kelapa Tujuh beach (although it fails to clarify that the project will, in fact, destroy the entire beach), without any explanation of how these impacts will be mitigated.¹⁵² The EIA itself does not analyze these impacts at all.

The EIA Framework's summary of the results of the two public consultations demonstrate that community members asked the project proponent to offset the project's impacts with green open space, but it is not clear from the document how the company responded to this concern.¹⁵³ Community complainants are surrounded by industrial development, and they are concerned

¹⁴⁴ EIA Framework at § 2.1.3.3(2)(A)(1)(a) Coal.

¹⁴⁵ EIA Addendum at § 2.1.4.2(3) Construction of Supporting Infrastructure for Power Plant.

¹⁴⁶ Trend Asia report at 16, 20; Seulki Lee, Eco-Business.

¹⁴⁷ The absence of any risk analysis associated with coal transport is particularly striking given that the EIA *does* mention in its brief section on cumulative impacts that an environmental risk associated with Unit 8 was spillage of coal during the transfer from ship to the coal stockpile. EIA at § 2.2(II) PLTU I Suralaya Unit 8.

¹⁴⁸ EIA Addendum at Table VI.1 Matrix of Environmental Management Plan, II(B)(B.1) No. 4 Coastal Ecosystem Disturbance.

¹⁴⁹ EIA Framework at § 2.1.2 Suitability of Business and/or Activity Plan Location with Spatial Planning.

¹⁵⁰ EIA at § 1.1.2 Conformity of the Location of the Business Plan and/or Activity with the Spatial Plan.

¹⁵¹ EIA Framework at § 2.1.3.2(3) Land Preparation.

¹⁵² *Id.*

¹⁵³ *See* EIA Framework at § 2.2 Results of Community Engagement.

about the project's destruction of the already extremely limited green space and recreational areas, including the loss of Kelapa Tujuh beach, which was the only remaining accessible coastal area in their community, and the lack of access to the sacred Kahal Hill.

e. Climate impacts

IFC PS 3 specifically requires clients to consider alternatives and implement feasible options to reduce project-related GHG emissions.¹⁵⁴ Moreover, major GHG-emitting projects must quantify the GHG emissions annually.¹⁵⁵ The EIA includes calculations of the project's CO₂ emissions and an analysis of offsetting at least some CO₂ emissions through planting various types of vegetation.¹⁵⁶ It does not, however, include any alternatives analysis, nor does it attempt to assess the project's CO₂ emissions in the context of the global climate crisis. This is of grave concern, considering the particular vulnerability of Indonesia, a nation of over 17,000 islands, which is already suffering from extreme weather events such as floods, cyclones, fires and landslides. Climate change will only worsen the frequency, intensity and consequences of these events.¹⁵⁷ Jakarta is among the major cities in the world facing "unprecedented" climate shifts.¹⁵⁸

In the context of the excess capacity of the Java-Bali network, which makes the Java 9 and 10 project unnecessary in the first place, the failure of project proponents to conduct an alternatives analysis is particularly egregious. While the project will use ultra-supercritical technology, it will still produce significant GHG emissions, and feasible alternatives should have been considered. Complainants are vulnerable to the local repercussions of climate disasters, to which Java 9 and 10 will be contributing, as well as the national and global impacts.

G. Physical and economic displacement has been overlooked

In addition to the serious environmental and health consequences of Java 9 and 10, local residents have been physically displaced by the project without adequate information or compensation, and small-scale vendors and fisherfolk face economic displacement with no plan for how to restore their livelihoods. Moreover, further land acquisition will be necessary to construct the new ash disposal area, but there is no information regarding the current use of the potential alternative sites.

In recognition of the serious consequences of both physical and economic displacement, IFC PS 5 mandates that involuntary resettlement should be avoided whenever possible, and where it is unavoidable, it should be minimized and appropriately mitigated through careful planning and

¹⁵⁴ IFC PS 3 at ¶ 7.

¹⁵⁵ *Id.* at ¶ 8.

¹⁵⁶ See EIA at § 3.2.1 Air Quality Decline.

¹⁵⁷ The severity of these disasters is, in fact, already increasing. Data from Indonesia's disaster mitigation agency shows that the frequency of disasters such as floods and droughts have increased from 1,967 cases in 2014, to 3,721 cases in 2019. See Hans Nicholas Jong, *Indonesia won't 'sacrifice economy' for more ambitious emissions cuts*, Mongabay (14 April 2020), available at: <https://news.mongabay.com/2020/04/indonesia-emissions-reduction-climate-carbon-economy-growth/> (last accessed September 2023).

¹⁵⁸ *Id.*

implementation that includes the meaningful consultation and participation of those affected.¹⁵⁹ All such displacement should be identified as part of a project's environmental and social impact assessment, and mitigation measures must be recorded and published in a Resettlement Action Plan or a Livelihood Restoration Plan.¹⁶⁰

In stark contrast to these requirements, the Java 9 and 10 EIA documents barely mention the physical and economic displacement associated with the project and fail to include any information whatsoever about the scope of the impacts or planned mitigation measures. The documents acknowledge that the area in which the project is being constructed included company housing and that around five hectares of the land was owned by a combination of company employees who owned their housing and other third parties.¹⁶¹ The EIA Framework notes that the project proponent would acquire the land using a "persuasive approach...so as not to cause concern,"¹⁶² and the EIA repeats this assertion, adding that the land acquisition impact has been "managed" because land was owned by employees of the company and land acquisition could therefore be "carried out in a family manner."¹⁶³ This is entirely at odds with the data reported in a separate section of the EIA, noting that 20% of people surveyed were not willing to have their land acquired for the project.¹⁶⁴ Neither document provides any further details about the physical displacement of company employees, many of whom had lived there for decades. In fact, the EIA notes that potential for negative public health impacts caused by the demolition of employees' homes,¹⁶⁵ yet entirely fails to mention the impact of being forcibly evicted. To complainants' knowledge, there is no Resettlement Action Plan for the project.

One complainant reports that his family lacked concrete information about the company's plans to evict them up until the time the final decision was communicated, at which point residents felt they had to agree to the terms presented.¹⁶⁶ Residents feared retaliation if they fought the eviction or sought better terms. The compensation received was insufficient to purchase equivalent housing in the area.

The approach to land acquisition described in the EIA Addendum is simply to reference Indonesian laws on land acquisition for public interest.¹⁶⁷ The document also suggests that because people will be paid for their land, the impact of land acquisition will be positive.¹⁶⁸ In clear violation of the requirements of IFC PS 5, there is no other analysis of this land acquisition and no known Resettlement Action Plan.

The EIA documents are similarly dismissive of the economic displacement caused by the project in complete contravention of the IFC PS 5 requirements that projects must anticipate, avoid and minimize economic displacement, provide appropriate compensation and improve, or at least

¹⁵⁹ IFC PS 5 at ¶ 2.

¹⁶⁰ *Id.* at ¶¶ 4, 14.

¹⁶¹ EIA Framework at § 2.1.3.1(2) Land Acquisition; EIA at § 1.1.3.1(2) Land Acquisition.

¹⁶² EIA Framework at § 2.1.3.1(2) Land Acquisition.

¹⁶³ *See* EIA at § 1.1.3.1(2) Land Acquisition and § 1.2.2 Evaluation of Potential Impacts.

¹⁶⁴ EIA at § 2.1.4(D) Community Perception.

¹⁶⁵ *See* EIA at § 3.1.8.2 Due to Land Preparation.

¹⁶⁶ Confidential complainant interview.

¹⁶⁷ *See* EIA Addendum at § 2.1.3.1(1) Land Acquisition.

¹⁶⁸ *See* EIA Addendum at § 4.3.2 Evaluation of Potential Impact.

restore, the livelihoods of those who have been economically displacement.¹⁶⁹ The EIA Framework acknowledges in passing that commercial buildings and public and social facilities, including mosques and health clinics, will be destroyed by the project,¹⁷⁰ but fails to provide any analysis whatsoever of the related impacts for local residents and their livelihoods. It also notes that there is some small-scale farming in the area,¹⁷¹ again without analysis of whether the project will affect these activities. Without an accurate and detailed analysis of the baseline for affected communities' livelihoods, adequate implementation of IFC PS 5 in relation to restoration of livelihoods is impossible.

Brief descriptions of public comments about the project demonstrate that community members raised several specific concerns about economic displacement related to the project. In particular, among other livelihood related ideas, they urged the project proponent to ensure that fisherfolk still had access to the areas they used for fishing and traders from Kelapa Tujuh beach be provided an alternative location that would still be attractive to tourists.¹⁷² Yet, nowhere does the EIA Framework clarify whether or how the project proponent plans to take these recommendations onboard. The document's livelihood-related content is limited to a statement that PT Indonesia Power requires contractors to prioritize local workers during construction,¹⁷³ and a brief description of the company's past corporate social responsibility (CSR) programs.¹⁷⁴ Hiring local construction workers and continuing the company's CSR programs do not come close to a Livelihood Restoration Plan.

The EIA does no better. It notes, for instance, that the local community has been allowed to plant seasonal crops and do small-scale farming of livestock on the land to be developed for the project, and that there are trees of economic value for the community,¹⁷⁵ yet at no point does it acknowledge the impacts on farmers and other community members of eliminating their access to this land. The Environmental Management Plan includes a brief reference to providing fisherfolk with access to the sea,¹⁷⁶ but without any acknowledgment of the fact that their prior access, via Kelapa Tujuh beach, is being destroyed by the project. Instead, this is mentioned as a mitigation measure aimed at helping to ensure a positive community perception of the project.¹⁷⁷ The only other references to economic or livelihood impacts from the project are positive, in terms of employment and creation of new business opportunities.

PT Indo Raya Tenaga's website pays lip service to IFC PS 5, but does nothing to actually correct the deficiencies in the project's due diligence documents. Specifically, a section of the website describing site visits by lenders says:

¹⁶⁹ See IFC PS 5 Objectives and ¶¶ 25-29.

¹⁷⁰ EIA Framework at § 2.1.3.2(3) Land Preparation.

¹⁷¹ EIA Framework at § 2.2.1.3(A) Land Biota.

¹⁷² See EIA Framework at § 2.2.1.4(D) Public Perception; *see also id.* at § 2.2 Results of Community Engagement.

¹⁷³ EIA Framework at § 2.1.3.2(1) Mobilization of Construction Workforce.

¹⁷⁴ EIA Framework at § 2.1.3.3(2)(I) Corporate Social Responsibility (CSR).

¹⁷⁵ EIA at § 2.1.3(A) Land Biota.

¹⁷⁶ Environmental Management and Monitoring Plans, Table 2.1 Environmental Management Plan Matrix, Construction Stage, No. 9 Changes in Community Perception and Operation Stage, No. 7 Changes in Community Perception.

¹⁷⁷ *Id.*

IRT, as the owner of [t]he Coal Fired Steam Power Plant (CFSPP) Jawa 9 & 10, is ultimately accountable for the management and supervision of all Project activities as part of the lender process. This responsibility includes all activities to ensure environmental and social performance objectives achievement as accordance to the International Finance Corporation (IFC) PS 5 protocol.

Several visits conducted by lender reviewers have been doing in the area to see the steps taken in compliance to the IFC standards. These includes visiting community, fishermen, land owners, and land users altogether seeing the development progress in the area of Suralaya and Lebakgede.¹⁷⁸

However, there is no further information about how the project will achieve the IFC PS 5 requirements. At the bottom of the page is a link to download the project's Stakeholder Management Plan, but there is no mention of a Livelihood Restoration Plan or a Resettlement Action Plan. Moreover, the site does not actually provide access to the Stakeholder Management Plan unless a form is filled out that requires the user to input their full name, identification number, gender, phone number and email address. As mentioned above, in the context of community complainants' significant retaliation concerns, these requirements essentially make the document inaccessible, as attempting to access it would fully expose the identity of the requester.

IV. Efforts to raise concerns about the project

As described above, and despite the risk of retaliation, complainants and other concerned community members have attended local meetings and participated in local protests in an attempt to raise concerns about the significant risks posed by the project, as well as the overall lack of transparency regarding the project's impacts. The response has been dismissive at best. At times, community members have faced intimidation and retaliation as a result of raising concerns, and many fear to speak out.

Complainants and other local community members have also worked with national and international civil society organizations in an attempt to raise awareness among financiers of the project about serious flaws in the project's environmental and social assessments and the project's contribution to the climate crisis. Attempts include: the August 2019 petition from three local residents to the Korean Prime Minister and the Chairman of the Korean Climate and Clean Air Council urging them to cancel funding for the project; the related lawsuit filed in the Central Korean court against Korean public financial institutions; and a series of protests in both Banten and in Jakarta at the Korean embassy.

¹⁷⁸ PT Indo Raya Tenaga website: Stakeholders Management Plan: <https://www.irt.co.id/stakeholders-engagement/> (last accessed September 2023).



Residents from Banten along with activists from WALHI Jakarta, PENA Masyarakat, Greenpeace Indonesia and Trend Asia in front of the South Korean Embassy, Jakarta (June 2020)

International efforts also include numerous attempts to engage the IFC about the project. This began in Fall 2020 when communications with IFC, in the lead up to publication of a report regarding implementation of the IFC's Green Equity Approach, revealed that IFC was apparently unaware of Hana Bank Indonesia's July 2020 investment in Java 9 and 10. After that exchange, Trend Asia and various international civil society organizations sent IFC management a formal letter raising concerns about the project¹⁷⁹ and have also held a number of meetings with IFC. Additionally, Trend Asia and other organizations have continued to alert IFC and other stakeholders about Java 9 and 10 through various reports, panel events, letters and meetings. These efforts have ultimately been unsuccessful, given that the project has continued moving forward despite numerous, blatant compliance violations.

V. Outcomes sought

The Complainants believe that, given the excess electrical capacity in the network and the truly unlivable conditions already being caused by dozens of nearby power plants and other polluting industries, the project should be stopped immediately or, if that is no longer possible, should be retired as early as possible. They believe that there is no possibility that the Java 9 and 10 project could ever be brought into compliance the IFC's Sustainability Policy or its Performance Standards. Nonetheless, they request that the CAO conduct a full investigation into the policy violations and make recommendations to:

- Fully redress the harm that has already been suffered as a result of the project; and
- Redesign the project to fully mitigate and compensate for harm, to bring the project as close to full compliance with the IFC PS as possible.

Moreover, if the CAO's investigation and recommendations, along with a corresponding Management Action Plan, are ultimately unsuccessful in bringing the project as close as possible to full compliance with the IFC PS, IFC should take whatever steps are necessary to ensure that it is no longer exposed to the project, including by divesting from Hana Bank Indonesia.

More broadly, and as clarified in the CAO 2021 Policy, the CAO's purpose includes enhancing the environmental and social performance of IFC. Moreover, IFC also has an integral role to play in terms of accountability, resolution of complaints and ensuring environmental and social compliance and performance. In that context, complainants believe that this complaint offers an important opportunity to reflect on IFC's Green Equity Approach and lending policies and practices more widely.

Complainants want to ensure that any remaining loopholes that would allow IFC to indirectly finance a new coal project via financial intermediary clients in the future are closed. While the IFC's 2023 update to the Green Equity Approach – which will prevent clients investing in new coal – is welcome, this approach is not mandatory, as it is not a policy. Furthermore, it does not

¹⁷⁹ See 15 January 2021 letter from Kate Geary, Recourse; Yuyun Indradi, Trend Asia; and Sejong Youn, Solutions for Our Climate to Peter Cashion, Global Head Climate Finance, IFC, attached as Annex 3. The IFC's response focused on implementation of the Green Equity Approach and did not address the concerns raised about Java 9 and 10. See 29 January 2021 email from Peter Cashion to Kate Geary, attached as Annex 4.

cover instances of captive coal power, nor does it prevent clients underwriting bonds for new coal projects. Finally, it is unclear how IFC will apply this approach to existing clients, with whom it has no new business, who are still investing in new coal.

The complainants also request that, in addition to developing a robust Management Action Plan in response to the CAO's compliance investigation, IFC also update its approach and policy framework to ensure it aligns with the Paris Agreement's goal of limiting global warming to 1.5 degrees Celsius – which necessitates no more public finance for fossil fuels. IFC must use its leverage with Hana Bank Indonesia (and indeed with all of its clients) to ensure no more financing of coal projects, and it must revise its Green Equity Approach and Paris alignment methodology accordingly. Moreover, it must increase transparency requirements so that both IFC and affected communities are aware, in advance, if an IFC client is considering providing support for fossil fuel projects.

[Signatures attached separately]

INTERNATIONAL FINANCE CORPORATION

**MANAGEMENT RESPONSE
TO THE CAO COMPLAINT
ON**

**KEB HANA BANK INDONESIA
INDONESIA – EAST ASIA & THE PACIFIC
(PROJECT No. 42034)**

April 9, 2024

TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS	ii
EXECUTIVE SUMMARY	iii
I. INTRODUCTION	7
II. PROJECT AND SUB-PROJECT OVERVIEW	8
III. CAO COMPLAINT	9
IV. MANAGEMENT RESPONSE.....	10
V. CAO POLICY APPLICATION	14
VI. CONCLUSION.....	15
Disclaimer	16

ABBREVIATIONS AND ACRONYMS

AMDAL	Environmental Impact Assessment in Indonesia
BIMA	PT Bank Bintang Manunggal
CAO	Compliance Advisor Ombudsman
CSO	Civil Society Organization
CFSP	Coal Fired Steam Power Plant
DFS	Digital Financial Services
EHS	Environmental, Health, and Safety
EIA	Environmental Impact Assessment
EPFI	Equator Principles Financial Institution
ESAP	Environmental and Social Action Plan
ESDD	Environmental and Social Due Diligence
ESIA	Environmental and Social Impact Assessment
E&S	Environmental and Social
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
FI	Financial Intermediary
GEA	Green Equity Approach
GFA	Global Facilities Agent
HFG	Hana Financial Group
IDI	Inclusive Development International
IFC	International Finance Corporation
IRT	Indo Raya Tenaga
KEB	Korea Exchange Bank
KHB	KEB Hana Bank Korea
KIFC	Korean Investment Finance Corporation
LEC	Lenders Environmental Consultant
MW	Megawatt
MR	Management Response
PLN	Perusahaan Listrik Negara
PS	IFC Performance Standards
SME	Small and Medium Enterprise
US\$	United States Dollar
WBG	World Bank Group

EXECUTIVE SUMMARY

i. This Management Response (MR) has been prepared by the International Finance Corporation (IFC) to address the issues raised in a complaint received in September 2023 by the Compliance Advisor Ombudsman (CAO) concerning IFC's investments in PT Bank KEB Hana Indonesia (Hana Indonesia or the Client).¹ In 2007, IFC established a strategic partnership with Hana Financial Group (HFG) to support its entry into the growing Indonesian banking sector by acquiring 19 percent equity stake in a small local bank, PT Bank Bintang Manunggal (BIMA) and subsequently increased its capital base to meet the minimum capital requirement. BIMA's name was subsequently changed to PT Bank Hana (Bank Hana). In February 2014, Bank Hana and PT Bank KEB Indonesia (Bank KEB) merged, resulting in Hana Indonesia. After the merger, IFC's ownership in Hana Indonesia was diluted to its present stake of 9.98 percent. IFC continued to support Hana Indonesia through debt transactions and the subscription of subsequent rights issues, the last of which was approved by IFC's Board in March 2019.

ii. The complaint is related to the development of the coal-fired steam power plants (CFSPs) Java 9 and 10 (the Sub-Project) that are an extension of the existing power complex, near Suralaya village in Banten Province, in which Hana Indonesia participated as a minor lender in a large syndicate of 14 commercial and public banks (the Syndicate). In July 2020, Hana Indonesia committed to financing approximately 2 percent of the total syndicated loan of US\$2.6 billion. Given the total project cost of US\$3.5 billion—\$2.6 billion financed by the syndicated loan and approximately \$900 million from the Sub-Client's own resources— Hana Indonesia's financing represents 1.6 percent of the total project cost. As of January 31, 2024, Hana Indonesia had disbursed an amount for the Sub-Project, constituting approximately 1.0 percent of the Sub-Project's total project cost. The syndication loan to PT Indo Raya Tenaga (IRT or the Sub-Client) will mature in 2035. With the 9.98 percent equity in Hana Indonesia that IFC currently holds, IFC's indirect exposure to the Sub-Project is less than 0.16 percent of total cost of the Sub-Project and approximately 0.2 percent of the external financing of the Sub-Project. This nominal exposure of Hana Indonesia to the Sub-Project does not translate into a meaningful leverage with the Sub-Client.

iii. Based on the information provided by the Client, Java 9 and 10 are being developed by the Sub-Client, which was established as a special-purpose vehicle to manage the Sub-Project through a consortium agreement between PT Indonesia Power and PT Barito Pacific.² PT Indonesia Power is a subsidiary of PT Perusahaan Listrik Negara (PLN), the Government of Indonesia owned electric utility company.³ As of September 2023, 80 percent of the construction of Java 9 and 10 has been completed, with full operation scheduled for 2025.

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

² Indonesia Power owns 51 percent and Barito Pacific 49 percent PT Indo Raya Tenaga website: Shareholder: <https://www.irt.co.id/shareholder/>

³ <https://www.plnindonesiapower.co.id/en/profil/Pages/Sekilas-Indonesia-Power.aspx>

iv. The complaint to CAO was filed in September 2023 by four civil society organizations (CSOs) — PENA Masyarakat,⁴ Trend Asia,⁵ Recourse,⁶ and Inclusive Development International (IDI)⁷— on behalf of community members from the Suralaya village in the Banten province of Indonesia (the Complainants). The complaint alleges the Sub-Project is in non-compliance of the IFC Performance Standards (PS) in relation to pollution, community health and safety and other environmental and social (E&S) impacts. The complaint specifically alleges the Sub-Project was developed on the basis of an inadequate Environmental Impact Assessment (EIA) as conducted in 2017 and that community members suffer from intimidation and retaliation.⁸ CAO found the complaint eligible in October 2023 and submitted its Assessment Report in March 2024. Since there was no agreement on a CAO-facilitated dispute resolution process, the Complaint was transferred to CAO’s compliance appraisal function.

v. In accordance with IFC’s Sustainability Policy (Sustainability Policy) Paragraph 33, IFC requires its Financial Intermediary (FI) clients to carry out individual transaction appraisal and monitoring as well as overall portfolio management in accordance with the E&S risk profile of its activities and that of individual sub-projects. Accordingly, in this case, Hana Indonesia was expected to conduct pre-investment E&S appraisal, including identifying any gaps between national laws and IFC PS, as needed, and require the Sub-Project to address these gaps.

vi. Hana Indonesia conducted the pre-investment E&S appraisal based on information provided by a Global Facilities Agent (GFA) that was responsible for all administrative aspects of the syndicated loan including hiring a qualified Lenders Environmental Consultant (LEC) to conduct the E&S Due Diligence (ESDD) and E&S monitoring. This is typical in multiparty syndicate transactions, where individual lenders do not conduct their own E&S appraisals, and instead rely on an agent for organizing and managing such appraisals on behalf of the entire syndicate. In the case of the Sub-Project, an Equator Principles Financial Institution (EPFI)⁹ acted as the GFA for the Syndicate. EPFIs have adopted the Equator Principles, intended to serve as a common baseline and risk management framework for financial institutions to identify, assess and manage E&S risks when financing projects.¹⁰ EPFIs use, in emerging markets, IFC Performance Standards (PS) as an underlying E&S risk and potential impacts assessment framework.

vii. The ESDD, as conducted by the LEC contracted by GFA for the Sub-Project, included a review of various project documentation including the E&S Impact Assessment (ESIA) and provided professional advice to the GFA regarding the project’s E&S compliance against applicable standards including but not limited to: i) Indonesian Law and applicable international treaties; ii) the Equator Principles; iii) World Bank Environmental, Health and Safety (EHS) Guidelines applicable to the project; iv) IFC PS; and other relevant good industry practice guidelines and related documents. Hana Indonesia had access to the relevant E&S documentation—including the ESIA and Environmental and Social Management Plan (ESMP) —

⁴ <https://penamasyarakat.or.id>

⁵ <https://trendasia.org/en/home/>

⁶ <https://re-course.org>

⁷ <https://www.inclusivedevelopment.net>

⁸ <https://www.cao-ombudsman.org/cases/indonesia-keb-hana-indonesia-rights-issue-iv-01suralaya-village>

⁹ <https://equator-principles.com/signatories-epfis-reporting/>

¹⁰ <https://equator-principles.com>

shared by GFA and was able, as part of its own internal process, to conclude that the Sub-Project was expected to comply with the requirements of the PSs within a reasonable period.

viii. The Sub-Project, currently under construction, benefits from regular E&S monitoring, including site visits from LEC that reports to GFA. Currently IFC has not received any notifications from Hana Indonesia nor is otherwise aware that the Sub-Project may not be able to implement the E&S Action Plan (ESAP) within the agreed period of time.

ix. Management highlights the requirements for IFC ESDD and supervision of FI investments set out in the Sustainability Policy are different from those for direct investments. In FI investments, IFC requires its FI clients to develop and operate an Environmental and Social Management System (ESMS) that is commensurate with the level of E&S risks in its portfolio and prospective business activities. FIs with portfolio and/or prospective business activities that present moderate to high environmental or social risks will require higher-risk business activities they support to apply relevant requirements of the PSs. IFC also implements a regular program of supervision of FI investments. To determine the effectiveness of an FI's ESMS, IFC periodically reviews the process and the results of the ESDD conducted by the FI for its investments. In addition, as part of its supervision efforts, IFC periodically reviews a sample of other FI investments, especially for business activities with significant E&S risks. IFC supervision may include visits at the FI level, as well as to recipients of FI loans/investments, particularly for high-risk sub-projects in cases where IFC is able to negotiate access rights to such sub-projects. Visits to sub-projects are to help identify gaps in FI's ESMS rather than directly managing E&S risks associated with these sub-projects. IFC works with its FI clients to help them address any shortcomings in their ESMS.

x. IFC conducted an ESDD process on Hana Indonesia. Taking the appraisal findings into consideration, in accordance with the Sustainability Policy, IFC required Hana Indonesia to apply to its lending operations the E&S performance requirements that included the PSs, IFC Exclusion List and relevant national E&S laws and regulations. As part of its ongoing supervision efforts IFC conducted 6 in person supervision visits to Hana Indonesia and reviewed 15 annual E&S performance reports over the time of IFC's investment. IFC provided enhanced support to Hana Indonesia's efforts to strengthen its ESMS in 2016-2017 and worked closely with the Client to provide guidance on the implementation of the ESMS, especially in the case of higher-risk sub-projects. Given the global COVID-19 pandemic, between March 2020 and September December 2022 IFC was able to conduct virtual supervision visits only. The latest supervision visit at the Client premises was conducted in January 2024.

xi. Outside of the current Sustainability Framework, the complaint also references the IFC's Green Equity Approach (GEA). The GEA constitutes IFC's commitment to reduce its indirect exposure to coal-related sub-projects through FIs. At the time of IFC's investments in Hana Indonesia, the GEA was not formally launched and was therefore not a contractual requirement in IFC investments.

- xii. At compliance appraisal, CAO determines if a compliance investigation is necessary, analyzing whether there are preliminary indications of harm and IFC non-compliance under the Sustainability Framework, and if these are plausibly linked.¹¹
- xiii. Management does not see any indications for IFC non-compliance and highlights the differentiated requirements for ESDD and supervision in FI transactions. IFC is not required to conduct ESDD or oversee individual sub-projects.
- xiv. IFC also notes that any alleged harm suffered by the complainants may not be plausibly linked to potential E&S non-compliance by IFC given IFC's indirect, nominal exposure to the Sub-Project through Hana Indonesia's 2 percent participation in the Syndicate. The review of the E&S documentation shared by Hana Indonesia with IFC indicates the Sub-Project has been properly assessed, E&S risks and potential impacts identified, and an ESAP agreed with the Sub-Client.
- xv. Further, the Client's minor financial exposure to the Sub-Project would not, in IFC's view, translate into a meaningful expectation of any remedial actions for the complainants should a compliance investigation proceed.

¹¹ CAO Policy Paragraph 91.

I. INTRODUCTION

1. Hana Financial Group (HFG or the Group), a leading global financial institution based in South Korea, has been a client of the International Finance Corporation (IFC) since 1971¹² when IFC assisted with the incorporation the country's first short term finance company the Korea Investment Finance Corporation (KIFC). KIFC was converted to a commercial bank in 1991 and is currently known as KEB Hana Bank Korea (KHB) a wholly owned subsidiary of HFG. IFC established a strategic alliance with HFG to establish operations in Indonesia and in 2007 committed its first equity investment of US\$1.3 million through a secondary purchase and further capital injection of US\$2.4 million (#26283)¹³ to acquire a 19 percent equity stake in small local PT Bank Bintang Manunggal (BIMA). BIMA's name was subsequently changed to PT Bank Hana Indonesia (Bank Hana). In February 2014, Bank Hana and PT Bank KEB Indonesia (Bank KEB) merged, resulting in PT Bank KEB Hana Indonesia (Hana Indonesia or the Client). After the merger, IFC's ownership in Hana Indonesia was diluted to its present stake of 9.98 percent. Expansion into Indonesia was part of HFG's broader global strategy to establish operations in select developing markets in East Asia and Eastern Europe.

2. IFC's original equity investment in Hana Indonesia was increased to US\$46.9 million through IFC's follow-up equity contributions to subsequent capital increases by way of rights issues to meet minimum capital requirements, provide growth capital, support access to finance for small and medium enterprises (SMEs), business expansion outside Java and to support Hana Indonesia's digital finance-oriented growth strategy. The last rights issue of up to US\$15 million was approved by IFC's Board in March 2019 and completed in May 2019 (#42034) to support the development of its nascent digital financial services (DFS) business in line with market trends, focusing on digital banking for the SME and retail segments. IFC's ownership stake remains at 9.98 percent.

3. The World Bank Group (WBG) is committed to developing a sound and well-functioning financial sector in Indonesia, which it sees as critical to sustained growth and shared prosperity by providing financial sector loans.¹⁴ The IFC investments with Hana Indonesia have aimed to strengthen and deepen the Indonesian banking sector.¹⁵ The IFC investments endeavored to support the Hana Indonesia's growth strategy and finance its capital investment in digital infrastructure in order to create the distribution and service channels for increasing the size of its lending operations in all business segments, markedly in the SME segment for Hana Indonesia to be able to leverage its equity to expand the volume of its SME loan portfolio in a sustainable manner.¹⁶ At the same time, IFC acknowledges equity investments cannot be targeted and that all on-lending activities of Hana Indonesia, once IFC became an investor, were subject to IFC Environmental and Social (E&S) requirements.

¹² <https://pressroom.ifc.org/all/pages/PressDetail.aspx?ID=19680>

¹³ <https://disclosures.ifc.org/project-detail/SPI/26283/hana-indonesia>

¹⁴ <https://openknowledge.worldbank.org/server/api/core/bitstreams/b459c991-a781-5603-b3ca-47a7d784f87b/content>

¹⁵ <https://disclosures.ifc.org/project-detail/SPI/26283/hana-indonesia>

¹⁶ <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>

4. In September 2023, a complaint was filed with the Compliance Advisor Ombudsman (CAO) by four civil society organizations (CSOs)— PENA Masyarakat,¹⁷ Trend Asia,¹⁸ Recourse,¹⁹ and Inclusive Development International (IDI)²⁰— on behalf of the community members from the Suralya village in the Banten province of Indonesia (the Complainants) against Hana Indonesia regarding its less than 2 percent stake in coal fired steam power plants (CFSPPs) Java 9 and 10 (the Sub-Project).

5. In October 2023, CAO found the Complaint eligible determining that Hana Indonesia’s less than 2 percent exposure to the Sub-Project constitutes a ‘material link’ qualified for further assessment. In March 2024, CAO submitted its final Assessment Report. Since there was no agreement on a CAO facilitated dispute resolution process, the Complaint was transferred to CAO’s compliance appraisal function.

6. Management has reviewed the CAO Assessment Report and prepared the following response. The subsequent sections provide an overview of the Project and Sub-Project, more details on the CAO Complaint, the IFC Management’s Response, a review of CAO policy application and conclusion.

II. PROJECT AND SUB-PROJECT OVERVIEW

7. In accordance with the WBG’s commitment to support the Indonesian banking sector, IFC provided a series of equity investments and debt facilities to Hana Indonesia to support development of the SME, microfinance, trade finance and digital banking segments.

8. To support the development of its nascent DFS for Hana Indonesia’s SME and retail segments, IFC provided an equity investment of up to US\$15 million in 2019 (#42034), approved by IFC’s board in March 2019.

9. The 2019 Hana Indonesia rights issue (#42034) was classified as a Financial Intermediary (FI) project, Category FI-2, in accordance with IFC’s Policy on Environmental and Social Sustainability.²¹

10. In July 2020, Hana Indonesia participated in a syndication loan to PT Indo Raya Tenaga (IRT or the Sub-Client), as part of a broader consortium of 14 commercial and public banks (the Syndicate). Hana Indonesia only provided 2 percent of the financing for the syndication loan to the Sub-Project, with the other Syndicate lenders providing the remaining 98 percent of external financing. In addition, the Sub-Client financed about 25 percent of the total cost of the project from its own resources. The syndication loan will mature in 2035. With IFC’s 9.98 percent equity in Hana Indonesia IFC’s indirect exposure to the Sub-Project is 0.2 percent of total Syndicate financing and less than 0.16 percent of the total cost of the project.

¹⁷ <https://penamasyarakat.or.id>

¹⁸ <https://trendasia.org/en/home/>

¹⁹ <https://re-course.org>

²⁰ <https://www.inclusivedevelopment.net>

²¹ <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>

11. The Sub-Project is being developed to meet the requirements of the Indonesian government's Electricity Power Supply Business Plan 2018-2027.²² Java 9 and 10 are considered national strategic projects by the Government of Indonesia.²³ The Sub-Client was established as a special-purpose vehicle to manage Java 9 and 10 through a consortium agreement between PT Indonesia Power²⁴ and PT Barito Pacific.²⁵ Indonesia Power is a subsidiary of PT Perusahaan Listrik Negara (PLN), the Indonesian state-owned electric utility company.

12. Java 9 and 10 are 2 new CFSPs being constructed in the Suralaya complex as expansion projects of the Suralaya power station, which includes 8 other existing CFSPs commissioned between 1985 and 2011.²⁶ The 8 units currently operating have a combined capacity of 4,025 Megawatt (MW). As of September 2023, approximately 80 percent of the construction of Java 9 and 10 had been completed, with full operation scheduled for 2025. The 2-unit expansion is expected to have a capacity of 2,000MW.

13. As of January 31, 2024, Hana Indonesia had disbursed an amount for the Sub-Project, representing approximately 1.0 percent of the Sub-Project's total project cost. The remaining disbursement is pending.

III. CAO COMPLAINT

14. CAO notified IFC of a complaint filed in September 2023 relating to E&S impacts of the Java 9 and 10 CFSPs in the Suralaya complex, Indonesia. CAO found IFC to be exposed to the power plants via its equity investment (#42034) in Hana Indonesia, which in turn provided project financing via a Syndicate for Java 9 and 10. Paragraph 41(a) of the CAO Policy states that for Complaints pertaining to FI sub-projects there is consideration as to whether ... *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)*. CAO has found the Complaint eligible determining that Hana Indonesia's nominal 2 percent share in the total syndication loan that finances the Sub-Project constitutes a material link.

15. The Complainants indicated that, even without the 2 new CFSPs, more than 4 million residents of Banten Province already experience serious threats to their health, livelihoods, and well-being from the 8 units currently operating at the Suralaya Complex. They claim Java 9 and 10 will make an already dire situation worse.

16. The Complainants are residents of Suralaya Village who raise several issues stemming from the expansion of the power plants. These include i) air pollution from the existing power plants, causing health problems that will be further intensified by the construction of additional

²² https://gatrik.esdm.go.id/assets/uploads/download_index/files/3fa53-ruptl-pln-2018-2027.pdf

²³ <https://indonesiabusinesspost.com/insider/jokowi-completes-170-strategic-projects-during-office-term-minister-says/>

²⁴ PT Indonesia Power is a subsidiary of PLN. It has a 51 percent share of IRT. PT Indo Raya Tenaga website: Shareholder: <https://www.irt.co.id/shareholder/>

²⁵ PT Barito Pacific has a 49 percent share of IRT. <https://barito-pacific.com/about-us/who-we-are>

²⁶ <https://www.power-technology.com/data-insights/power-plant-profile-suralaya-power-plant-indonesia/>; <https://www.power-technology.com/data-insights/power-plant-profile-suralaya-power-plant-ii-indonesia/>

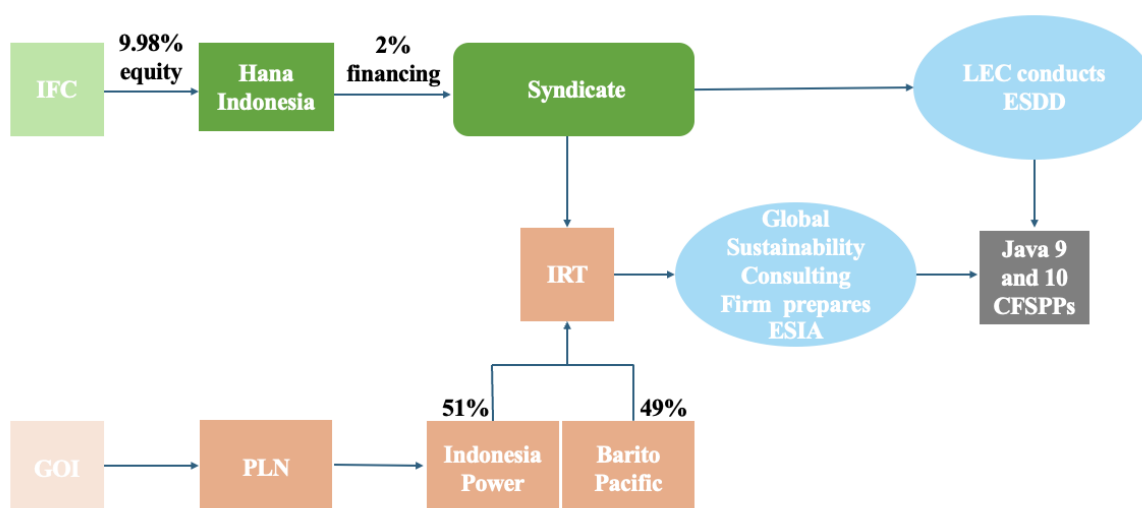
power plants; ii) the expansion has led to land acquisition from residents, which does not comply with IFC Performance Standards (PS); iii) loss of livelihood, especially for fishermen, due to the expansion; iv) additional environmental and climate impacts negatively affecting the living standards of Suralaya residents and neighboring regions; v) lack of transparency, information, and meaningful consultation with communities; vi) construction impacts; vii) intimidation and retaliation against individuals who speak out about the aforementioned adverse impacts; viii) lack of IFC due diligence and appropriate supervision.

17. During the assessment process, CAO notes the Complainants were divided as to whether to proceed with dispute resolution or compliance. CAO further notes Hana Indonesia preferred a compliance process. Therefore, CAO determined the case would proceed to a compliance appraisal.²⁷ The final CAO Assessment Report was issued in March 2024.

IV. MANAGEMENT RESPONSE

18. IFC acknowledges the issues raised in the Complaint are serious. IFC Management respects the CAO's process in its eligibility determination and assessment of the Complaint. This section explains IFC's requirements under the IFC Sustainability Policy (Sustainability Policy) in relation to E&S Due Diligence (ESDD) and Supervision of FIs.

Figure 1. IFC Financial Exposure to the Sub-Project and ESDD



IFC's Environmental and Social Due Diligence

19. IFC requires its FI clients to manage the E&S risks and impacts of sub-project investments consistent with IFC E&S requirements. In accordance with Paragraph 33 of the Sustainability Policy, IFC requires its FI clients to carry out individual transaction appraisal and monitoring as

²⁷ See Paragraph 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.”

well as overall portfolio management in accordance with the E&S risk profile of its activities and that of individual transactions.

20. During E&S appraisal IFC reviews the existing portfolio and prospective business activities of its FI clients to identify activities where the FIs and IFC could be exposed to risks as a result of their investments and defines requirements for managing these risks. IFC reviews the implementation capacity of FIs as well as their E&S Management System (ESMS), as required by PS1. IFC appraised the portfolio and prospective activities of Hana Indonesia and disclosed its findings on the IFC disclosure portal and respective Board Papers.²⁸

21. At the time of appraisal of the most recent IFC investment (#42034), the Hana Indonesia portfolio was considered medium risk. The key sectors of exposure included construction and real estate, as well as trade, rubber, and plastic manufacturing and transportation. Most of the exposure was to SMEs. The portfolio also included a very limited number of exposures to corporates. Hana Indonesia reported that none of these sub-projects were exposed to significant E&S risks, such as involuntary resettlement, significant impacts on biodiversity and local communities, or impacts on indigenous peoples. Hana Indonesia's strategy at the time of appraisal was to expand its presence in the SME sector further. Taking the appraisal findings into consideration, in accordance with the Sustainability Policy, IFC required Hana Indonesia to apply to its lending operations the E&S performance requirements that included the IFC Exclusion List, relevant national E&S laws and regulations and the PSs.

IFC's Supervision

22. The Sustainability Policy requires IFC to supervise FI clients and verify the effectiveness of an FI's ESMS. As part of this process IFC periodically reviews the process and the results of the ESDD conducted by the FI for its investments.

23. IFC reviewed Hana Indonesia's existing portfolio at the time of investment in the last rights issue in May 2019 (#42034). The FI client is required to carry out the ESDDs of Sub-Projects and monitor E&S risk accordingly, thus Hana Indonesia was responsible for conducting pre-investment ESDD for the Sub-Project, including identifying any gaps between national laws and IFC's PS, and requiring the Sub-Project to address these gaps. In the case of Java 9 and 10 Sub-Project Hana Indonesia had access to the relevant E&S documentation—including the Environmental and Social Impact Assessment (ESIA) and Environmental and Social Action Plan (ESAP)—shared by GFA. Hana Indonesia was able, as part of its own internal process, to analyze and conclude that the Sub-Project was expected to comply, with the requirements of the PSs within a reasonable period of time.

24. As part of its ongoing supervision efforts IFC conducted 6 supervision visits to Hana Indonesia and reviewed 15 annual E&S performance reports over the period of IFC exposure. Given the global COVID-19 pandemic, between March 2020 and September December 2022 IFC

²⁸ <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>

was able to conduct virtual supervision visits only. The latest supervision visit at the Client premises was conducted in January 2024.

25. IFC has been reviewing relevant E&S sub-project documentation to verify the effectiveness of the Clients' E&S risk management process. This included the review of the ESIA and ESDD of the Sub-Project, as provided by Hana Indonesia upon request. Relevant recommendations have been shared with Hana Indonesia. IFC also provided enhanced support to Hana Indonesia in 2016-2017 and worked closely with the Client to provide guidance on the implementation of the ESMS particularly in the case of higher risk sub-projects.

26. Management notes that under the Sustainability Framework IFC is not required to conduct ESDD or oversee sub-projects directly. IFC does not have direct contractual relationships with the Sub-Project and does not have access rights to visit it as part of IFC's supervision activities of Hana Indonesia.

Hana Indonesia's ESDD on the Sub-Project

27. Hana Indonesia as part of the consortium of lenders looked to an Equators Principles Financial Institution (EPFI)²⁹ as the Global Facilities Agent (GFA) for the Sub-Project to undertake the E&S risk assessment process through the Lenders Environmental Consultant (as described in Paragraphs 28 and 29 below). The GFA for the Sub-Project also served as one of the lead arrangers of the syndicated loan. The GFA manages the administrative aspects of the loan for the consortium of lenders participating in the syndicated loan and hired the Lenders Environmental Consultant (LEC) to conduct a) ESDD focused on the review of the ESIA prepared by the Sub-Project and b) regular monitoring of the implementation of the Environmental and Social Management Plan (ESMP) and ESAP by the Sub-Project.

28. The Sub-Client together with a global sustainability consulting firm prepared the 2019 ESIA against the IFC Performance Standards, in addition to the 2017 Environmental Impact Assessment (AMDAL) required by national law.³⁰ The ESIA process had identified the key E&S issues and impacts associated with the Sub-Project requiring the implementation of a wide range of mitigation measures. The necessary actions required to manage these issues, impacts and risks were presented by the Sub-Client in the ESMP.

29. The GFA hired a different global consulting firm to act as the LEC and conduct ESDD of Java 9 and 10 as well as conduct periodic site visits and audits of E&S reports and updates.

30. The ESDD of the Sub-Project included a review of various project documentation including the ESIA (2019) and ESMP.³¹ The LEC provided advice to the Lenders regarding the project's E&S compliance against the applicable standards including but not limited to: i) Indonesian Law and applicable international treaties; ii) the Equator Principles; iii) WBG

²⁹ <https://equator-principles.com/signatories-epfis-reporting/>

³⁰ AMDAL is an abbreviation for Analisis Mengenai Dampak Lingkungan which translates to Environmental Impact Assessment in Bahasa.

³¹ <https://www.irt.co.id/stakeholders-engagement/>

Environmental, Health and Safety (EHS) Guidelines applicable to the project; iv) IFC Performance Standards; and other relevant good industry practice guidelines and related documents.

31. The ESDD undertaken by the LEC addresses various aspects including the stakeholder consultation process. The ESDD included the development of ESAP for the Sub-Project to address any compliance gaps of the existing ESIA (including the ESMP) with the applicable international standards including PS.

32. Land acquisition and displacement was also part of the ESDD conducted by LEC. Gaps were identified and relevant mitigation measures included in the ESAP.

33. Hana Indonesia had access to all relevant E&S documentation shared by GFA and was able, as part of its own internal process, to conclude that the Sub-Project was expected to comply, with the requirements of the PSs within a reasonable period of time.

Hana Indonesia's Supervision of the Sub-Project

34. Currently, construction of the Sub-Project is 80 percent advanced and some of the issues raised in the CAO complaint were previously known and being addressed by the Sub-Client. The GFA continues to work with the LEC that was contracted to undertake regular Sub-Project E&S monitoring, including monitoring of ESAP implementation. Hana Indonesia has access to the relevant documents and is able to provide feedback to E&S risk monitoring activities of the Sub-Project. However, it needs to be acknowledged that such feedback is provided to the GFA and considered together with other members of the Syndicate before it may be communicated to the Sub-Project.

IFC's Green Equity Approach

35. The complaint also references to the IFC's Green Equity Approach (GEA). GEA constitutes IFC's commitment to reduce its indirect exposure to coal-related sub-projects through FIs. In mid-2019 IFC launched GEA — applicable for all new equity or equity-like investments in FIs to increase their climate lending and reduce their exposure to coal-related projects in line with the Paris Agreement goals. IFC no longer makes equity investments in financial institutions that do not have a plan to phase out investments in coal-related activities. Since 2023, IFC new equity clients are not allowed to finance coal-related projects once IFC becomes a shareholder.³²

36. At the time of the last rights issue from IFC to Hana Indonesia, approved in March 2019 and committed in May 2019,³³ IFC had only begun testing some of the components such as public disclosure of exposure to coal-related sub-projects or reduction of exposure to such sub-projects that eventually were reflected in GEA. The application of IFC's GEA was not a legal requirement at the time of investment. It does not form part of the E&S requirements under the IFC Performance Standards applicable to the Client.

37. Additionally, although outside of the scope of the Sustainability Framework requirements, IFC used its leverage and engaged with KHB to persuade Hana Indonesia to move away from coal

³² <https://www.ifc.org/en/insights-reports/2023/greening-equity-investments-in-financial-institutions>

³³ <https://disclosures.ifc.org/project-detail/SII/42034/keb-hana-indonesia-rights-issue-iv>

related investments. It is important to note KHB officially became an EPFI on August 23, 2021³⁴. Also of note is that in support of the Korean government's aim to become carbon neutral by 2050 and transition to green economy, KHB has joined the anti-coal campaign as part of its "Next 2030 Management Principles." This commitment also applied to all its subsidiaries overseas including Hana Indonesia. No new coal related investment is expected in line with the Hana Indonesia's stated policy on coal.

IFC's Zero Tolerance towards Reprisals

38. IFC's Position Statement on Retaliation Against Civil Society and Project Stakeholders (October 2018) makes clear IFC does not tolerate any action by an IFC client that amounts to retaliation – including threats, intimidation, harassment, or violence – against those who voice their opinion regarding the activities of IFC or its clients.

39. IFC takes seriously the allegations in the Complaint and is concerned especially by the fear of reprisals expressed by those making the complaint. Upon learning about the Complainants' fear of reprisals, IFC took immediate action. Management directly engaged with the Client to reinforce IFC's position regarding reprisals.

V. CAO POLICY APPLICATION

40. IFC respects CAO's independence and its eligibility determination of the complaint that concluded Hana Indonesia's nominal 2 percent share in the total syndication loan that finances the Sub-Project constitutes a material link.³⁵

41. At Compliance Appraisal CAO analyses IFC's role as an investor in the Financial Intermediary and whether that has material link to a Sub-Project. The CAO Policy Paragraph 91 defines: 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.

42. In relation to Paragraph 91(a) IFC takes seriously the concerns raised in the Complaint related to the Sub-Project.

43. In relation to Paragraph 91(b) the section above explained that Hana Indonesia's ESDD and Supervision of the Sub-Project, through its role as minor lender in a large syndicate, have been adequate. Further, Management highlights that there are no preliminary indications of IFC non-compliance with its E&S Policies. In FIs, the IFC is not required to conduct ESDD and supervision

³⁴ <https://equator-principles.com/hana-bank-adopts-the-equator-principles/>

³⁵ Paragraph 41(a) of the CAO Policy states that for Complaints pertaining to FI sub-projects there is consideration as to whether ... 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).

of subprojects directly. IFC's obligations in supervising FI clients are to determine the effectiveness of an FI's ESMS and periodically review a sample of the FI's investments.

44. In relation to Paragraph 91(c), IFC notes that alleged harm suffered by the complainants from the Sub-Project may not be plausibly linked to potential IFC non-compliance. IFC currently holds a 9.98 percent stake in Hana Indonesia that financed 2 percent of the syndicated loan to the Sub-Project that allegedly caused harm. Given the total project cost of US\$3.5 billion, Hana Indonesia's exposure represents less than 2 percent of the total project cost. Moreover, the IFC review of the E&S documentation shared by Hana Indonesia indicates the Sub-Project has been properly assessed, E&S risks and potential impacts identified, and an ESAP agreed with the Sub-Client.

45. In this context, IFC wishes to highlight the Client's minor financial exposure to the Sub-Project would not, in IFC's view, translate into a meaningful expectation of remedial actions for the complainants should a compliance investigation proceed. The Client has only a contractual relationship with the Sub-Project operator as a minor lender of the Syndicate and its ability to enforce contractual obligations of the Sub-Client is commensurate with the level of its exposure. Such an exposure will not, in IFC's experience, allow for meaningful client leverage or influence over the Sub-Project operator to promote and implement any remedial actions recommended through a compliance investigation.

VI. CONCLUSION

46. IFC takes seriously allegations of harm related to the current construction and future operation of the Java 9 and 10 CFSPPs in Indonesia. IFC complied with its Sustainability Framework. IFC required Hana Indonesia to apply to its lending operations the E&S performance requirements that included the IFC Exclusion List, relevant national E&S laws and regulations and the PSs. IFC has also regularly supervised the Client over the time of its investments. Hana Indonesia adequately reviewed and monitors the Sub-Project given its role in the Syndicate that has applied the IFC PS to the Java 9 and 10 CFSPPs. Any alleged harm caused by the Sub-Project cannot be linked to any potential E&S non-compliance by IFC in working with its FI client.

47. IFC's client Hana Indonesia has an approximately 2 percent share in the syndicate loan to the Sub-Project. IFC has an indirect, nominal exposure to the Sub-Project of 0.2 percent of total syndicate financing.³⁶

48. KHB committed to stop financing coal-related projects in 2021 and has extended this commitment to Hana Indonesia, however, no such commitments or contractual exclusions were applicable at the time of IFC's investments.

49. Further, the Client's very low financial exposure of less than 2 percent of the total project cost of the Sub-Project does not translate into meaningful leverage or influence over the Sub-Project for any remedial actions for the complainants should a compliance investigation proceed.

³⁶ IFC holds 9.98 percent equity in Hana Indonesia and Hana Indonesia provided 2 percent financing to IRT, which funded Java 9 and 10. Therefore, IFC's indirect exposure is 0.2 percent of total financing. See Figure 1.

DISCLAIMER

This IFC Management Response is provided in response to the Assessment Report of the Office of the Compliance Advisor Ombudsman (CAO) finding a complaint to a project supported by IFC finance or investment eligible for compliance appraisal.

Nothing in this IFC Management Response or in the process provided for in the CAO Policy (“CAO Process”) (1) creates any legal duty, (2) asserts or waives any legal position, (3) determines any legal responsibility, liability, or wrongdoing, (4) constitutes an acknowledgment or acceptance of any factual circumstance or evidence of any mistake or wrongdoing, or (5) constitutes any waiver of any of IFC’s rights, privileges, or immunities under its Articles of Agreement, international conventions, or any other applicable law. IFC expressly reserves all rights, privileges, and immunities. IFC does not create, accept, or assume any legal obligation or duty, or identify or accept any allegation of breach of any legal obligation or duty by virtue of this IFC Management Response.

While reasonable efforts have been made to determine that the information contained in this IFC Management Response is accurate, no representation or warranty is given as to the accuracy or completeness of such information. CAO is not a judicial or legal enforcement mechanism. Its analyses, conclusions, and reports are not intended to be used in judicial or regulatory proceedings nor to attribute legal fault or liability and it does not engage in factfinding nor determine the weight that should be afforded to any evidence or information. No part of this IFC Management Response or the CAO Process may be used or referred to in any judicial, arbitral, regulatory, or other process without IFC’s express written consent.

Appendix 3 Additional Appraisal Considerations

Additional Appraisal Considerations

The CAO Policy provides for the compliance appraisal to take into account additional considerations, as outlined in the table below.

CAO Policy provision	Analysis for this case
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 (para. 92a).	Not applicable.
The relevance of any concluded, pending or ongoing judicial or non-judicial proceeding regarding the subject matter of the complaint (para. 92b).	Not applicable.
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 (para. 92c).	Not applicable.
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 (para. 92d).	Not applicable.
In relation to a project or sub-project that has already been the subject of a compliance investigation, CAO may: (a) close the complaint; (b) 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 (c) initiate a new compliance investigation only where the complaint raises new issues or new evidence is available (para. 93).	Not applicable.

Appendix 4 Terms of Reference for Compliance Investigation



Terms of Reference for Compliance Investigation of IFC's Environmental and Social Performance in relation to its Investment in PT Bank KEB Hana Indonesia (including IFC project #42034) in the Republic of Indonesia

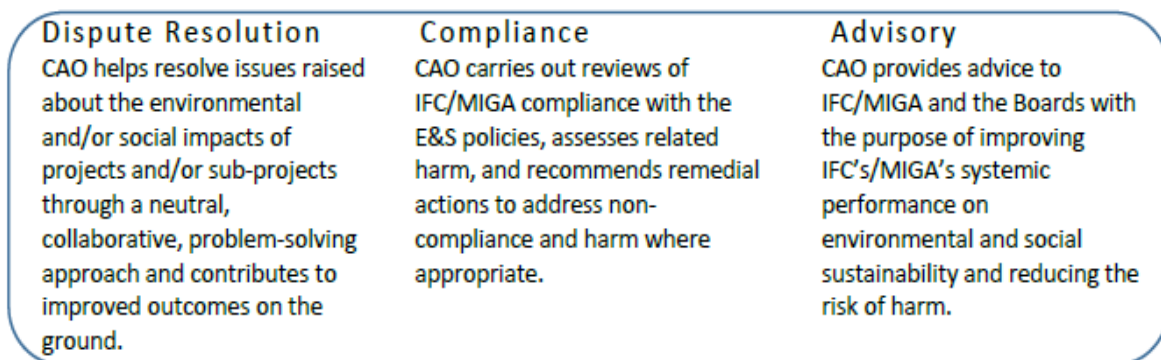
About CAO and the Compliance Function

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.

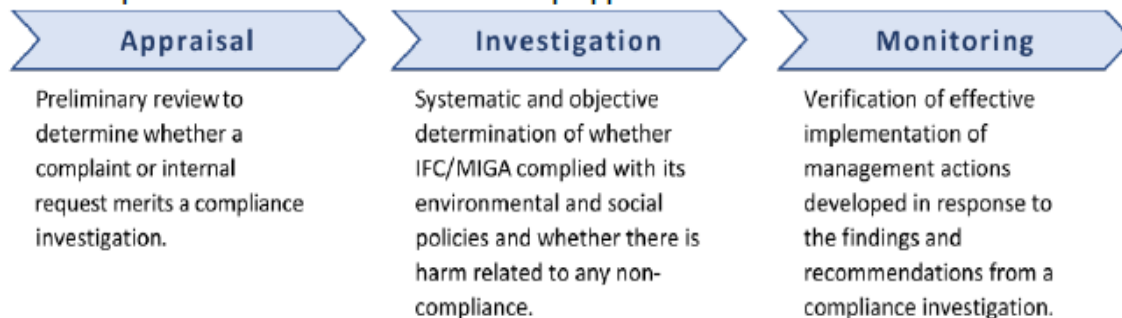
CAO's independence and impartiality are essential to fostering the trust and confidence of stakeholders involved in complaint processes. CAO is independent of IFC and MIGA management and reports directly to the IFC and MIGA Boards.

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, visit: www.cao-ombudsman.org.

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



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



Context and Investment

IFC first made an equity investment in the financial institution now known as PT Bank KEB Hana Indonesia (Hana Indonesia) in 2007. Following several additional investments, IFC made a further investment in its client in 2019 to retain its 9.98% shareholding, for a total investment in Hana Indonesia of US\$46.9 million.

In July 2020, IFC's client, Hana Indonesia, provided a loan to the developer of two coal fired steam power plants (CFSPPs) referred to as Java 9&10, as part of a syndicate of 14 public and commercial banks. Hana Indonesia's commitment amounted to about 2% of the total financing and about 1% of the total project cost.

Complaint and CAO Process

In September 2023, CAO received a complaint alleging adverse environmental and social (E&S) impacts of the Java 9&10 CFSPPs, submitted by four local, regional, and international civil society organizations (CSOs) on behalf of community members in Suralaya village, which is near Cilegon in Banten Province, Indonesia. During CAO's assessment, the parties did not reach agreement to pursue a CAO-facilitated dispute resolution process and the complaint was transferred for compliance appraisal in March 2024. Based on available documentation and information, the appraisal found preliminary indications of harm to the complainants as a result of the Java 9&10 project, preliminary indications of potential IFC non-compliance regarding its environmental and social due diligence (ESDD) and supervision of its client, and a plausible link between the alleged harm and potential IFC non-compliance.

Investigation Terms of Reference

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

- *The objectives and scope of the investigation;*
- *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;*
- *The approach and method of investigation, and specific consultant qualifications; and*
- *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.*

Objective and Scope of the Compliance Investigation

A CAO investigation determines whether IFC complied with its Environmental and Social (E&S) Policies relevant to an investment and whether there is harm related to any IFC non-compliance. In determining whether IFC has complied with its E&S Policies, CAO includes, where appropriate, an assessment of whether IFC deviated in a material way from relevant directives and procedures.

As established in the Compliance Appraisal Report, CAO will conduct a compliance investigation related to IFC's investment in Hana Indonesia and particularly as relates to Hana Indonesia's investment in the Java 9&10 CFSPPs.

Relevant to such matters, the objective of the investigation is to determine:

1. Whether IFC has complied with its E&S Policies, specifically whether IFC has conducted adequate ESDD and supervised its investment in Hana Indonesia as required by the Sustainability Policy; and
2. Whether there is harm or potential harm to the complainants related to any IFC non-compliance.

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 related to the project and sub-project. CAO will consider project-level E&S performance particularly in relation to the application of the following Performance Standards to the sub-project, which are relevant to the issues raised in the complaint:

- PS1 (Assessment and Management of Environmental and Social Risks and Impacts) in relation to identification and mitigation of all E&S risks and impacts; cumulative impacts assessment; stakeholder engagement including information disclosure, consultation with affected communities, and a process of Informed Consultation and Participation (ICP); and grievance mechanism.
- PS3 (Resource Efficiency and Pollution Prevention) in relation to adverse impacts on human health, the environment, and ecosystem services due to pollution (affecting ambient air and seawater quality), and alternatives and management of GHG emissions.
- PS4 (Community Health, Safety and Security) in relation to adverse impacts on human health and use of security forces, and threats and retaliation against those who raise concerns about the project.
- PS5 (Land Acquisition and Involuntary Resettlement) in relation to the requirements for a resettlement and livelihood restoration plan, including consultation and proper implementation to effectively restore and compensate for the physical relocation and livelihood impacts on affected communities.
- PS6 (Biodiversity Conservation and Sustainable Management of Living Natural Resources) in relation to biodiversity risks and impacts on the fish population and other ecosystems, and impacts to ecosystem services as a result.
- PS8 (Cultural Heritage) in relation to damage to a sacred site.

Methodological Approach

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.

The compliance investigation process and compliance investigation 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 to consider in the development of a Management Action Plan (MAP) relating to the remediation of Project-level noncompliance and related harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances. In case of a project where an IFC Exit has occurred, recommendations will consider the implications of such exit.*

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.

External Expert(s)

As per its established practice, CAO will engage one or more external experts for this investigation. For this compliance investigation, CAO considers the following qualifications as necessary:

- Significant expertise in evaluating and implementing Financial Intermediary (FI) E&S risk management systems
- Knowledge of IFC's E&S policies, standards, and procedures
- Experience and knowledge relevant to conducting reviews of FI E&S risk management systems
- Experience and knowledge of conducting E&S reviews of large power facilities
- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts
- Experience and knowledge relevant to conducting compliance investigations
- Fluency in English, familiarity with Bahasa Indonesia desirable.

Field Visit and Potential Limitations of the Investigation

A field visit to the complainants' community and client offices is anticipated during the compliance investigation, and the Java 9&10 and/or Suralaya power complex facilities if possible. The CAO case team, external experts, and an interpreter/translator would be expected to participate in any field visit.

Compliance Investigation Schedule, Timeframe, and Reporting Requirements

According to the CAO Policy¹, a draft compliance investigation report must be circulated within one year of the disclosure of an appraisal report. A draft compliance investigation report for this case will be circulated to IFC management and all relevant departments for factual review and comment. Management may share the draft report with the client on the condition that appropriate measures are in place to safeguard the confidentiality of the draft report prior to public disclosure. IFC will have 20 business days to provide written comments.

At the same time, the draft investigation report will be circulated to the complainants for their factual review and comment, provided that appropriate measures are in place to safeguard the confidentiality of the draft report prior to public disclosure. If such confidentiality measures are not in place, complainants will, at a minimum, receive a draft table of the investigation's findings for factual review and comment and as a source of information to inform future consultations on any IFC Management Action Plan (MAP).

Upon receiving comments on the consultation draft from IFC and the complainants, CAO will finalize the investigation report. The final report will be submitted to IFC senior management and circulated to the 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

¹ CAO Policy, para. 121.

management and circulated to the Board, CAO will notify the public on its website of the investigation's completion.

Upon CAO's final submission of the compliance investigation report to IFC, IFC 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 proposes for the purpose of addressing CAO findings of non-compliance and related harm. IFC 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 is unable to address in the MAP.

CAO will submit comments on the proposed MAP to the Board, and the complainants may submit a statement to CAO on the proposed MAP and the adequacy of consultations for circulation to the Board. Upon the Board's approval of the MAP, the compliance investigation report, management report, and MAP will be published on CAO's website.