



**OMBUDSMAN ASSESSMENT & CONCLUSION REPORT**

**Complaint Regarding the Africa Investco Project  
(Project #27819)**

**Africa Region**

*September 2012*

*Office of the Compliance Advisor/Ombudsman  
International Finance Corporation/  
Multilateral Investment Guarantee Agency  
[www.cao-ombudsman.org](http://www.cao-ombudsman.org)*

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## **LIST OF ACRONYMS**

CAO	Office of the Compliance Advisor/Ombudsman
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency

## 1. Introduction

The Office of the Compliance Advisor/Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. The CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA supported projects in a manner that is fair, objective, and constructive and to enhance the social and environmental outcomes of those projects.

The CAO assessment is conducted by CAO's Ombudsman function. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; and (3) to help the CAO Ombudsman and the stakeholders determine whether and how they might be able to resolve the issues raised in the complaint.

As per CAO's Operational Guidelines,<sup>1</sup> the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint

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

Step 3: **Ombudsman assessment:** Assessment of the issues and provide support to stakeholders in understanding and determining whether a collaborative solution is possible through a facilitated process by the CAO Ombudsman, or whether the case should be transferred to CAO Compliance for appraisal of IFC's/MIGA's social and environmental performance. The assessment time can take up to a maximum of 120 working days.

Step 4: **Facilitating settlement:** If the CAO Ombudsman process continues, this phase involves initiation of a dispute resolution process (typically based on or initiated by a Memorandum of Understanding and/or ground rules agreed to by the parties) through facilitation/mediation, joint fact-finding, or other agreed resolution process, leading to a settlement agreement or other mutually agreed and appropriate goal. The major objective of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the problem-solving process, in a way that is acceptable to the affected parties<sup>2</sup>.

OR

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<sup>1</sup> For more details on the role and work of the CAO, please refer to the full Operational Guidelines: <http://www.cao-ombudsman.org/about/whoweare/index.html>

<sup>2</sup> Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, the CAO Ombudsman will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the CAO Ombudsman will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Ombudsman has closed the complaint and transferred it to CAO Compliance for appraisal.

**Compliance Appraisal/Audit:** If a collaborative resolution is not possible, CAO Compliance will initiate an appraisal of IFC's/MIGA's social and environmental due diligence of the project in question to determine whether a compliance audit of IFC's/MIGA's intervention of the project is merited.

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

Step 6: **Conclusion/Case closure**

In March 2012, a complaint was filed with CAO raising labor issues regarding unpaid salaries and expenses owed to employees of Baobab Investment Limited in London, United Kingdom.

On April 18, 2012 the CAO determined that the complaint met its three eligibility criteria:

1. The complaint pertains to a project that IFC is participating in, or is actively considering.
2. The issues raised in the complaint pertain to the CAO's mandate to address environmental and social impacts of IFC investments.
3. The complainant (or those whom the complainant has authority to represent) may be affected if the social and/or environmental impacts raised in the complaint occurred.

Subsequently, according to CAO's Operational Guidelines, the CAO Ombudsman began the assessment of opportunities for resolving the issues raised in the complaint. The assessment period is limited to a maximum of 120 working days, but may be completed more quickly depending on whether the issues are amenable to resolution.

In this case, the complaint issues were resolved during the CAO assessment period. Thus, this single report serves as both the Assessment and Conclusion Report.

## **2. The Project**

The investment involved IFC's acquisition of a minority equity interest in Baobab Investments Ltd., a newly formed Africa-focused transport infrastructure development company. Three other global companies were also equity shareholders in Baobab Investments Ltd (the "Company") alongside IFC. The Company was based in Mauritius with a U.K. subsidiary in London, United Kingdom. IFC approved the equity investment to enable the financing of the Company's activities and to provide equity for the Company's projects, as required. The project was approved in June 2009.

In March 2012, IFC and the other shareholders resolved to liquidate the Company. As of the writing of this Report, the liquidation was still underway and being managed by BDO LLP.

## **3. The Complaint**

In March 2012, CAO received a complaint raising issues regarding allegedly unpaid salaries and expenses owed to employees of Baobab Investments. The complaint cites a specific employee's case and alleges that other ex-employees are in a similar situation. In addition, the complainant expressed concerns with regard to lack of information from management and

shareholders to the work force, and specifically as it relates to liquidation of the U.K. subsidiary. The complainant requested that CAO keep his/her identity confidential.

#### **4. Assessment Methodology and Findings**

As noted above, the purpose of the CAO assessment is to clarify the issues and concerns raised by the complainant, to gather information on how other stakeholders see the situation, and to help the CAO Ombudsman and the stakeholders determine whether and how they might be able to resolve the issues raised in the complaint. The CAO Ombudsman does not gather information to make a judgment on the merits of the complaint.

The CAO assessment of the complaint consisted of:

- a review of project documents; and
- phone calls, interviews, written correspondence, and meetings with IFC project team, complainant, and other relevant parties

No assessment trip or project site visits were conducted.

When CAO commenced its assessment, the complainant and IFC informed CAO that efforts to resolve the complaint issues were already underway. All relevant parties conveyed their preference for those efforts to continue with the hope of reaching a successful conclusion without CAO assistance. In July 2012 the complainant and IFC informed CAO that the matter was resolved<sup>3</sup>. CAO independently confirmed the complainant's satisfaction with the outcome.

#### **5. Lessons and Insights**

**It is essential that CAO be able to work in flexible ways.** To carry out its mandate and use limited resources effectively and responsibly, CAO must remain flexible and retain some discretion. During an assessment, it would be typical practice for a CAO team to visit the IFC/MIGA project site and meet with key stakeholders in person. CAO also would be typically convening any dispute resolution processes or negotiations between the complainant, IFC project sponsor, and other relevant stakeholders related to the complaint issues. In this case, it was clear that parties preferred to try and resolve matters themselves first, and CAO honored that request. CAO was diligent in maintaining regular communication with the complainant and IFC throughout the assessment period. CAO also satisfied itself that the complainant, who was also represented by legal counsel, was making decisions freely and not under threat or duress. Ultimately, the relevant parties were able to resolve the issues raised in the complaint, with minimal use of public resources on the part of CAO.

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<sup>3</sup> Due to complainant requests for confidentiality as well as the confidentiality of sensitive business information, no other details can be publicly disclosed.