CAO Compliance Appraisal of Complaint Regarding IFC Investment in Wings Group's PT Sayap Mas Utama, Indonesia, and its Palm Oil Supply Chain

IFC Project 32208

March 28, 2023

About CAO

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, and has three functions, shown below. For more information, visit: www.cao-ombudsman.org.

Dispute Resolution	Compliance	Advisory
CAO helps resolve issues raised about the environmental and/or social impacts of projects and/or sub-projects through a neutral, collaborative, problem-solving approach and contributes to improved outcomes on the ground.	CAO carries out reviews of IFC/MIGA compliance with the E&S policies, assesses related harm, and recommends remedial actions to address non-compliance and harm where appropriate.	CAO provides advice to IFC/MIGA and the Boards with the purpose of improving IFC's/MIGA's systemic performance on environmental and social sustainability and reducing the risk of harm.

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:

Appraisal	Investigation	Monitoring
Preliminary review to determine whether a complaint or internal request merits a compliance investigation.	Systematic and objective determination of whether IFC/MIGA complied with its environmental and social policies and whether there is harm related to any non-compliance.	Verification of effective implementation of management actions developed in response to the findings and recommendations from a compliance investigation.

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Acronyms

Acronym	Definition
AMAN	Aliansi Masyarakat Adat Nusantara (Indigenous Peoples Alliance of the Archipelago)
AS	Advisory Services (IFC)
CAO	Office of the Compliance Advisor Ombudsman (IFC and MIGA)
CPO	Crude palm oil
E&S	Environmental and social
EHS	Environmental, health, and safety
ESAP	Environmental and Social Action Plan
ESDD	Environmental and social due diligence
ESMS	Environmental and social management system
ESRS	Environmental and Social Review Summary
ESRP	Environmental and Social Review Procedures
FN	Footnote
FPIC	Free, prior, and informed consent
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-governmental organization
PKO	Palm kernel oil
PS	Performance Standards (IFC)
PS1	Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts
PS3	Performance Standard 3: Resource Efficiency and Pollution Prevention
PS4	Performance Standard 4: Community Health, Safety, and Security
PS5	Performance Standard 5: Land Acquisition and Involuntary Resettlement
PS6	Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resource
PS7	Performance Standard 7: Indigenous Peoples
PT SMU	PT Sayap Mas Utama (Wings Group)
SII	Summary of Investment Information
WBG	World Bank Group

Executive Summary

This compliance appraisal report documents CAO's preliminary review of a 2018 complaint from local communities in North Kalimantan, Indonesia, regarding environmental and social impacts from oil palm plantations owned by the Wings Group. From 2012–2019, IFC financed Wings Group subsidiary[1] PT Sayap Mas Utama (PT SMU, the client), a detergent manufacturer which sourced palm oil derivatives in part through Wings Group plantations and mills. The complainants raised concerns about water pollution and associated health impacts, failure to establish agreed smallholdings, and clearing of Indigenous Peoples' forest and land seizure without consultation or compensation. For the reasons summarized below, CAO concludes that the complaint merits a compliance investigation in relation to IFC's investment in PT SMU. Although IFC exited the investment in 2019, CAO believes this case offers opportunities for accountability and that broader lessons can be learned regarding IFC's oversight of clients' environmental and social issues related to supply chains.

Context and Investment

Between 1997 and 2008, IFC financed 14 investments in the Wings Group,[2] a vertically integrated Indonesian business group that manufactures and distributes consumer goods. The Group has its origins in the soap and detergent sector, which relies on palm oil derivatives, and produces palm oil and other raw materials at its own plantations.[3] In 2011, Wings Group subsidiary PT SMU was one of two "laundry giants" in Indonesia with over 40-percent market share.[4]

In 2012, the Wings Group launched a US$176 million project to expand the products and capacity of four companies,[5] including PT SMU. In April 2013, IFC received Board approval for an A loan of US$44 million and a syndicated B loan of US$44 million to the four entities.[6] IFC's rationale for the investment included supporting a longstanding client in reaching low-income consumers.

IFC's financing for the detergent company PT SMU consisted of an A loan of US$13.75 million and a B loan of US$13.75 million. On December 16, 2019, PT SMU prepaid all outstanding IFC loan balances, ending IFC's exposure to the subsidiary company.

Notably, IFC's investment in PT SMU was prepared shortly after the release of the 2011 World Bank Group (WBG) Framework and IFC Strategy for Engagement in the Palm Oil Sector (WBG

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[1] The IFC disclosure page for this investment does not specify the corporate structure of PT SMU in relation to the Wings Group. However, public information from an earlier IFC investment in PT SMU states that PT SMU was wholly owned by the founders of the Wings Group. See IFC disclosure website, IFC project number 7508: https://disclosures.ifc.org/.

[2] IFC disclosure website: https://disclosures.ifc.org/. Relevant IFC project numbers are: 7508, 8414, 10233, 11696, 23922, 24904, 25103, 25841, 26210, 27157, 17159, 27160, 27128, and 27129.

[3] Sayap Mas Utama PT in Home Care (Indonesia), May 15, 2015. Euromonitor Local Company Profiles, Euromonitor International. Also, Wings Group website: https://wingscorp.com/.

[4] Laundry Care in Indonesia, September 17, 2012. Euromonitor Sector Capsules, Euromonitor International.

[5] Aside from PT SMU, IFC's investment in the other three Wings subsidiaries were PT Tirta Alam Segar and PT Murni Alam Segar to expand their beverage product lines, and PT Harum Alam Segar to commission a greenfield coffee mix production. IFC, Summary of Investment Information (SII) for IFC project no. 32208, 2012. Available at: https://bit.ly/Wings01-SII.

[6] IFC, SII, 2012.

Framework and IFC Strategy).[7] This in turn followed a 2009 CAO audit of downstream IFC investments in a major palm oil company in Indonesia,[8] which resulted in an 18-month global moratorium on new WBG palm oil sector investments from September 2009. Informed by a global stakeholder consultation, the WBG Framework and IFC Strategy committed IFC to support sustainable palm oil production in its lending activities.[9]

The Complaint

In November 2018, CAO received a complaint from the Indonesian NGO AMAN Kaltim.[10] Submitted on behalf of Indigenous community members in Long Beluah and Long Lian, North Kalimantan. The complaint cited environmental and social (E&S) impacts from oil palm plantations owned by PT Gawi Makmur Kalimantan (PT Gawi), a Wings Group subsidiary. Specific allegations included pollution of drinking water sources and associated health impacts, as well as the clearance of Indigenous Peoples' forest and seizure of their land without consultation or compensation. Community members also alleged that PT Gawi failed to meet agreed commitments to establish smallholdings and build a community church.

PT Gawi received IFC financing in 2001–2007 but was not financed by IFC at the time CAO received the complaint. However, CAO accepted the complaint on the basis that IFC's then client, PT SMU, sourced refined palm oil derivatives (oleochemicals) from refineries that in turn sourced some of their palm oil from PT Gawi mills and plantations.

IFC Response

According to IFC's Management Response, IFC conducted a review of the E&S risks associated with the sourcing of oleochemicals. IFC concluded that its E&S due diligence (ESDD) of PT SMU aligned with Performance Standards (PS), and therefore there was no basis for non-compliance with its E&S policies.[11] IFC's Management Response stated that the PT SMU supply chain did not include any "ongoing supplier relationships," and thus the client did not have management control and/or leverage to propose mitigation measures in its raw material sourcing. The Management Response also noted there was no alternative raw materials source for palm oil in Indonesia.[12] IFC also argued that there was no plausible link between any potential non-compliance on its part and the alleged or potential harm to communities because only a small fraction of the client's raw materials was sourced indirectly from PT Gawi.

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[7] World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector, 2011. Available at: https://bit.ly/WBG-IFCStrategyPalmOil
[8] CAO Audit of IFC's Investments in: Wilmar Trading (IFC No. 20348), Delta-Wilmar CIS (IFC No. 24644), Wilmar WCap (IFC No. 25532), and Delta-Wilmar CIS Expansion (IFC No. 26271), June 19, 2009. Available at: https://officecao.org/Wilmar01Audit
[9] WBG Framework and IFC Strategy, p. 31.
[10] See Annex 1 for a copy of the complaint.
[11] In its Management Response, IFC states: "IFC concluded that its ESDD was aligned with PS1 and, accordingly, believes there is no non-compliance with its E&S Policies." IFC Management Response to the CAO Complaint on Sayap Mas Utama (SMU) #32208, Indonesia, November 8, 2022, para. 16. See Appendix 2 for the IFC Management Response.
[12] Ibid., para. 14.

Analysis

According to the CAO Policy, the purpose of the CAO compliance appraisal process is to determine whether a complaint merits an investigation by applying the following criteria: a) whether there are preliminary indications of harm or potential harm; b) whether there are preliminary indications that IFC may not have complied with its E&S policies; and c) whether the alleged harm is plausibly linked to the potential non-compliance.

Based on an initial review of available information, CAO's appraisal concludes that the complaint meets the three criteria for a compliance investigation:

a). **CAO finds preliminary indications of harm to the complainants**, on the basis that:

- Credible, contemporaneous posts to AMAN Kaltim's website describe community concerns and events about PT Gawi as they arose and provide a basis for concluding preliminary indications of harm.
- The issues raised in the complaint are known potential adverse impacts in palm oil value chains, as described in the 2011 World Bank Group Framework and IFC Strategy as well as other contemporary sources.
- IFC confirmed the supply chain link between its client and the plantation whose activities are the focus of the complaint.
- IFC has not contested the alleged harms to the complainants.

b). **CAO finds preliminary indications that IFC may not have complied with its E&S policies.** Based on a preliminary review of IFC documentation:

- IFC may have failed to properly apply its Sustainability Policy requirement for pre-investment E&S due diligence. Documentation provided did not include a review of reputational and third-party risks, a supply chain assessment, or assessment of the client's control and leverage over its supply chain.
- There is no documentation indicating that IFC verified its client's review of third-party risks with a view to creating outcomes consistent with the Performance Standards, specifically PS3, PS4, PS5, PS6, and PS7 in the context of its supply chain.
- IFC may not have verified the proper application of PS1 to the project in relation to E&S risks and impacts from primary supply chains. Available documentation suggests IFC did not require its client to conduct supply chain mapping and risk assessment.
- The potential failure to assess E&S risks and impacts in PT SMU's supply chain resulted in Board approval of the project without any relevant ESAP items or E&S conditions of disbursement that could have been informed by the results of the ESDD, as required by the Sustainability Policy.
- IFC may not have properly applied Sustainability Policy requirements for project supervision during the life of the PT SMU investment. IFC may have failed to review project-related information that became known and provide advice to the client on addressing related critical E&S issues. IFC may also have failed to require its client to

assess and mitigate/compensate for any residual impacts prior to prepayment by its client.

c). **The alleged harms to the complainants are plausibly linked to IFC's potential non-compliance,** based on the following considerations:

- The preliminary indications of harm identified in this appraisal are the types of issues that IFC's Sustainability Framework seeks to avoid and mitigate by applying Sustainability Policy and Performance Standards requirements to projects.
- Available documentation indicates that IFC's due diligence did not assess the potential E&S risks and impacts within PT SMU's supply chain nor did IFC require any such assessment from its client. Although Wings Group is a vertically integrated business, and Wings Group links are found at each level of the client's supply chain, IFC did not structure the project in a manner that increased the client's control and leverage of its supply chain to address potential E&S risks.
- There are preliminary indications that IFC did not take action to mitigate risks after receiving clear indications of adverse E&S impacts at Wings Group plantations and mills through an ESDD for an Advisory Services project which included a site visit.
- Alleged harms experienced by the communities are intrinsically linked to the supply of oil palm fresh fruit bunches, and IFC confirmed that PT Gawi fresh fruit bunches remain in PT SMU's supply chain.

IFC Exit

According to the CAO Policy, an additional consideration applies to this case.[13] Because the client prepaid all outstanding balances to IFC in December 2019, CAO must consider the following: "[f]or any 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."[14]

CAO has concluded that, despite the IFC Exit,[15] an investigation would provide value in terms of accountability, learning, or remedial action. Detailed on pages 23–24, CAO's reasons for this conclusion include the opportunity to support greater consistency and clarity in IFC's due diligence and supervision of client supply chain issues. Specifically, the findings of CAO's investigation into the PT SMU investment could support enhancements to the IFC Palm Oil Strategy and IFC Good Practice Handbook and inform the upcoming review of IFC Performance Standards.

Next Steps

As the appraisal criteria are met and the considerations under paragraph 92a have been duly considered, CAO will proceed to conduct a compliance investigation following the CAO Policy.

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[13] CAO Policy, para. 92. Available at: https://officecao.org/policy.
[14] Ibid., para. 92a.
[15] The CAO Policy glossary defines an IFC Exit as: "With respect to any Project, the earlier of (i) the termination of the financing, investment, or advisory relationship with the Client for such Project pursuant to the applicable Project agreements; or (ii) when the Project ceases to exist, or the Project has been dropped by IFC after Board approval." In this case, the former applies.

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 April 2024.

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

1. Introduction

This section provides an overview of IFC's investment in Wings Group subsidiary PT Sayap Mas Utama (PT SMU) and the CAO complaint process.

a). Overview of IFC Investment

Owned by two Indonesian families, the Wings Group manufactures and distributes consumer goods such as home care, fabric care, personal care, and food and beverage products, serving both domestic and export markets.[16] The vertically integrated business has its origins in the soap and detergent business and its activities range from raw material production to manufactured product distribution.[17] Wings Group subsidiary PT Sayap Mas Utama (PT SMU, the client), a detergent manufacturer, is the "biggest domestic player in the home care market in Indonesia."[18] In 2011, PT SMU had an over 40-percent share of the domestic laundry market[19] and ranked top among national companies in bleach care, surface care, and bath and shower products.[20]

IFC considers the Wings Group a key strategic partner in the East Asia Pacific region, and financed 14 investments in the diversified business between 1997 and 2008.[21] IFC's past Wings Group investments include PT SMU,[22] PT Gawi Makmur Kalimantan (PT Gawi) (oil palm plantations and mills),[23] and PT Ecogreen Oleochemicals (palm oil refinery).[24] In 2012, the Wings Group undertook a US$176 million project to: a) expand beverage products under PT Tirta Alam Segar (PT TAS); b) expand production of fruit-flavored beverage in plastic cups under PT Murni Alam Segar (PT MAS); c) commission a green-field coffee mix production under PT Harum Alam Segar (PT HAS); and d) increase the capacity of detergent business PT SMU. IFC financed a loan package of up to US$88 million (A loan of US$44 million and a syndicated B loan of US$44 million) to those four entities, receiving Board approval for the investment in April 2013.[25]

In June 2013, IFC's loan package to the Wings Group was separated into four projects. Financing for PT SMU's expansion of its detergent business, the project relevant to this compliance appraisal, consisted of an A loan of US$13.75 million and a B loan of US$13.75 million. On

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[16] Wings Group website.
[17] Sayap Mas Utama PT in Home Care (Indonesia), May 15, 2015. Euromonitor Local Company Profiles, Euromonitor International.
[18] Sayap Mas Utama PT in Home Care (Indonesia), 2015.
[19] Laundry Care in Indonesia, September 17, 2012. Euromonitor Sector Capsules, Euromonitor International.
[20] Bleach in Indonesia, May 25, 2011; Surface Care in Indonesia, May 25, 2011; Bath and Shower in Indonesia, June 29, 2012; Euromonitor Sector Capsules, Euromonitor International.
[21] IFC, SII, 2012.
[22] IFC invested in PT SMU to increase its detergent and soap production capacity, upgrade and expand its packaging lines, establish printing capability for labeling and packaging, establish new warehouses and distribution centers, and upgrade EHS conditions to meet World Bank guidelines. IFC's investment consisted of an A loan of US$25 million and a B loan of US$55 million. Additional information on IFC disclosure page: https://bit.ly/PTSMU-SII.
[23] IFC financed PT Gawi's development and maintenance of oil palm plantations as well as the construction of PT Gawi's second palm oil mill (project #10233). IFC's investment consisted of an A loan of US$10 million and a syndicated B loan of US$11 million. Additional information on IFC disclosure page: https://bit.ly/Gawi-SII.
[24] IFC provided two loans to PT Ecogreen Oleochemicals of up to US$55 million for the expansion of fatty acid and fatty alcohol production plants. Additional information on IFC disclosure page: https://bit.ly/EcogreenI-SII and https://bit.ly/EcogreenII-SII.
[25] IFC, SII, 2012.

December 16, 2019, the client prepaid all outstanding balances to IFC, and IFC has no remaining financial exposure to the client.

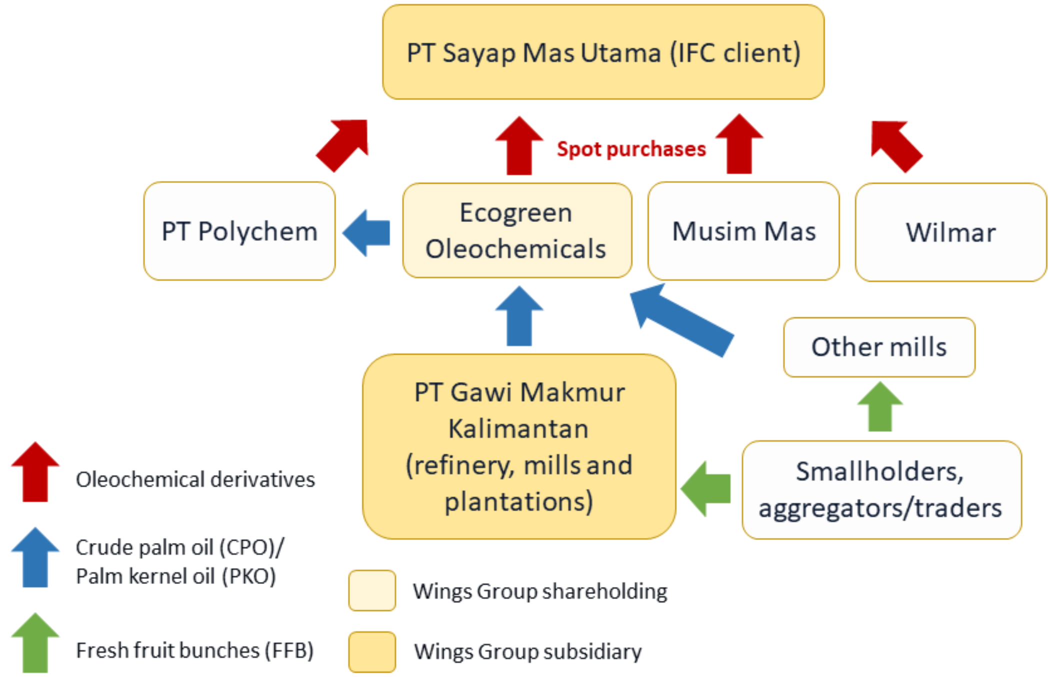
Notably, IFC's investment in PT SMU was prepared shortly after the release of the 2011 World Bank Group (WBG) Framework and IFC Strategy for Engagement in the Palm Oil Sector (WBG Framework and IFC Strategy).[26] This strategy was developed following a 2009 CAO audit of a series of downstream investments in the Wilmar Group, a major palm oil company in Indonesia.[27] The audit findings were published amid rising global concern about the environmental and social sustainability of oil palm production, and resulted in the WBG President declaring an 18-month global moratorium on new palm oil sector investments from September 2009. Informed by a global stakeholder consultation, the WBG Framework and IFC Strategy reassessed the World Bank Group's approach and pledged WBG and IFC commitment to sustainable palm oil production.[28]

IFC's loans to Wings Group businesses were among its first investments in Indonesia following the new palm oil sector framework and strategy. However, IFC's request to the Board for approval of the Wings Group investments including PT SMU made no reference to palm oil, despite palm oil derivatives being an essential ingredient in its detergent products, supplied through other Wings Group subsidiaries.

The graphics below provide: a) the 2018 supply chain links identified by IFC in May 2019 between the IFC client and other Wings Group companies; and b) a timeline of the IFC project, community complaint, and relevant palm oil sector and supply chain developments.

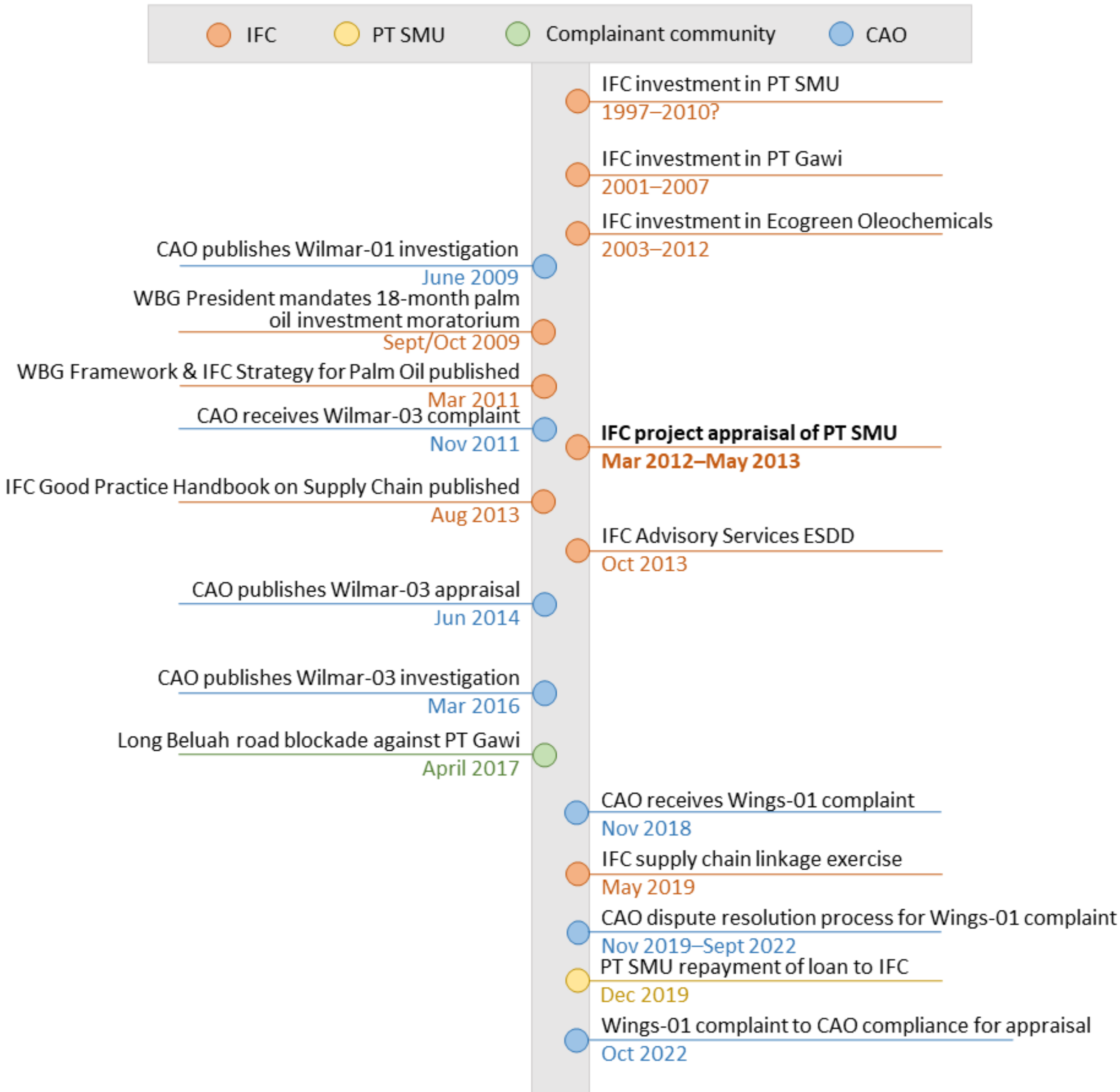
[26] WBG Framework and IFC Strategy for Engagement in the Palm Oil Sector, 2011.
[27] CAO Audit, 2009.
[28] WBG Framework and IFC Strategy, p. 31.

Figure 1*.* **2018 supply chain links between IFC client PT SMU and PT Gawi mills and plantations related to the complaint (data provided by IFC in May 2019)**[29]



[29] This figure is based on information provided by IFC to CAO in May 2019 which consisted of data mostly from 2018.

Figure 2. **Timeline of the IFC project, community complaint, and relevant oil palm and supply chain developments**



b). Compliance Appraisal Scope and Methodology

The scope of this compliance appraisal[30] is limited to issues raised in the complaint (see Appendix 1) and CAO's subsequent Assessment Report.[31] None of the issues were resolved during CAO's dispute resolution process,[32] and CAO did not receive any request to exclude any of the issues by the complainants during the appraisal. As such, all the issues raised in the complaint and Assessment Report are within the scope of this appraisal.

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

- Relevant documentation, including the complaint, the supporting NGO's website, a letter received from the complainants' representative during appraisal, the CAO Assessment Report, CAO Dispute Resolution Conclusion Report, and IFC Management Response to the complaint;
- IFC and client documentation related to the implementation of project E&S requirements; and
- Relevant publicly available documentation.

CAO also considered information gathered through communication with the complainants and IFC project team.

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

2. Complaint from Project-Affected Communities

In November 2018, CAO received a complaint from AMAN Kaltim (Aliansi Masyarakat Adat Nusantara, Kalimantan Timur, or Indigenous Peoples Alliance of the Archipelago, East Kalimantan), a regional chapter of a national NGO. Submitted on behalf of Indigenous community members living in Long Beluah and Long Lian, North Kalimantan, Indonesia,[33] the complaint raises concerns regarding the environmental and social impacts of oil palm plantations owned by PT Gawi Makmur Kalimantan (PT Gawi), a Wings Group subsidiary. These concerns are summarized below.

PT Gawi received IFC financing in 2001–2007 to develop and maintain oil palm plantations and to construct a second palm oil mill. However, it was not directly or indirectly financed by IFC at the time CAO received the 2018 complaint. CAO accepted the complaint on the basis that then IFC client PT SMU sourced refined palm oil derivatives (oleochemicals) from refineries that in turn sourced some of their palm oil from PT Gawi mills and plantations (see Figure 1).

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[30] CAO Policy, para. 88.

[31] CAO Assessment Report Regarding Concerns in Relation to IFC's Investment in Wings Group (#32208) in Indonesia, November 2019. Available at: https://officecao.org/Wings01Assessment.

[32] CAO Dispute Resolution Conclusion Report Regarding Complaint Received in Relation to IFC's Investment in PT SMU (IFC #32208) in Indonesia, October 2022. Available at: https://officecao.org/WIngs01ConclusionR.

[33] See Annex 1 for a copy of the complaint.

CAO found the complaint eligible in February 2019. During CAO's assessment of the complaint, PT Gawi and the complainants elected to address the issues raised through CAO's dispute resolution process.[34]

After the dispute resolution process was initiated, the process was delayed due to travel restrictions related to the COVID-19 pandemic. Subsequently, the two communities' lack of access to the internet and other communication platforms prevented the dispute resolution process from moving forward. In early 2022, the complainants and PT Gawi agreed to terminate the dispute resolution process. With the complainants' consent, the complaint was transferred to the CAO compliance function for appraisal on October 31, 2022.[35]

While the community concerns in the complaint focus on the activities of PT Gawi, this compliance appraisal centers on IFC's investment in PT SMU and the client's supply chain links to PT Gawi and its palm oil operations.

The complainants' E&S concerns regarding PT Gawi's operations fall into four areas:

a). Water Pollution and Associated Health Impacts

The complainants state that PT Gawi's oil palm plantation is polluting the local water sources that they use for drinking purposes. They claim the pollution originates from fertilizers and pesticides used by PT Gawi, which run into the springs when it rains. The complainants also allege that PT Gawi dumps palm oil fruit and skins on the banks of the local river, which fall in and produce an oily layer on the water.

The complaint states that some community members have experienced rashes and itchiness from using the polluted water, and notes that residents are worried about the long-term impacts.

b). Indigenous Peoples' Land Seizure and Forest Clearance without Consultation or Compensation

The complainants note that when PT Gawi first arrived, its representatives offered to buy land parcels from villagers. The company subsequently acquired 106 hectares of land, of which 49 hectares were tropical forest. However, according to the complaint, PT Gawi continues to clear forest beyond the 49 hectares without consultation or compensation with the villagers. The complainants state that, as Indigenous Peoples, the forest is an important part of their daily lives and ancestral legacy.

c). Failure to Establish Agreed Smallholdings

The complainants claim that the company enticed them to sell their land at a low price by offering them an opportunity to participate in a smallholder program.[36] In Long Beluah, they state that 240

[34] CAO Assessment Report, 2019.
[35] CAO Dispute Resolution Conclusion Report, 2022.
[36] Smallholdings have formed an integral part of Indonesia's palm oil sector since the 1970s. Referred to as the nucleus

people sold their land to the company but only 40 so far are beneficiaries of the smallholder program, known as a "plasma scheme." In addition, they claim that some of these 40 people are non-residents of Long Beluah and therefore should not be beneficiaries, and add that the beneficiaries themselves do not yet know the location of their allocated land.

d). Failure to Provide Agreed Development Benefit

The complainants state that the company also committed to build a church in 2007. Under the agreement, the community would provide the building material and the company would provide the labor. However, the company did not comply with these terms and the communities were left with no recourse but to provide both the building material and the labor to construct the church.

4. Summary of IFC Response

IFC's response to the complaint does not address or contest the E&S impacts on communities catalogued above, focusing on the links between its client, PT SMU, and PT Gawi.

According to the IFC Management Response, PT SMU produces laundry detergent utilizing two oleochemicals (lauryl myristyl alcohol and fatty alcohol ethoxylate). These oleochemicals are provided by their suppliers who refine them through an industrial process that blends crude palm oil (CPO) and palm kernel oil (PKO). The refineries source CPO and PKO from traders, small- and large-scale mills, and hundreds of plantations—both large estates and smallholders—across Indonesia.

Based on a review of the E&S risks associated with the sourcing of oleochemicals, IFC states the following arguments to assert there is no basis for non-compliance with its policies:

a) The client's supply chain did not include any ongoing supplier relationships due to procurement through spot purchases from four refineries;

b) The client did not have management control and/or leverage to propose mitigation measures to companies from which it sourced raw materials; and

c) There were no alternative sourcing routes for raw materials within Indonesia's palm oil value chain.

IFC therefore concluded that its environmental and social due diligence (ESDD) of the project was aligned with the Performance Standards and asserted that there is no basis to demonstrate non-compliance with its E&S policies.

IFC also presented CAO with a 2018 supply chain risk assessment that included analysis of traceability and the linkage between the client and the PT Gawi plantations. Based on this assessment, IFC estimated that less than 2 percent of PT SMU's raw materials were indirectly sourced from PT Gawi plantations. As a result, IFC considers there to be no plausible link between any potential non-compliance and the alleged harm or potential harm to communities.

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estate and smallholder program, a state-run or private company became the nucleus estate (*inti*) and each smallholder (*plasma*, or participating farm household) was allocated a specified amount of land for cultivation and housing. See CAO 2009 Audit, pp. 12–13.

Finally, the Management Response stated that, at the time of project appraisal, IFC was fully aware of the E&S risks associated with the palm oil value chain in Indonesia, citing the palm oil moratorium and the WBG Framework and IFC Strategy for Engagement in the Palm Oil Sector.

5. Client Response

CAO did not receive a response from IFC's client for consideration in this compliance appraisal.

6. CAO Analysis

This section summarizes CAO's analysis of the complaint, based on research, a preliminary document review, and correspondence with IFC and the complainants. It provides an overview of relevant IFC E&S policy requirements and standards. It then presents analyses of the three appraisal criteria required for CAO to determine whether to initiate a compliance investigation.[37] These criteria are:

a) Whether there are preliminary indications of harm or potential harm;

b) Whether there are preliminary indications that IFC may not have complied with its E&S policies; and

c) Whether the alleged harm is plausibly linked to the potential non-compliance.

The section concludes with CAO's decision on whether the issues raised merit a compliance investigation based on the appraisal criteria and other considerations outlined in the CAO Policy.

a). Preliminary Analysis of Harm

In accordance with the CAO Policy, a compliance appraisal is required to consider whether a complaint raises "preliminary indications of Harm or potential Harm."[38] Based on the information available, CAO concludes that there are preliminary indications of harm to the complainants resulting from the PT SMU project.

As detailed above, the alleged harms include pollution of water sources and associated health impacts, taking of Indigenous Peoples' land and clearing of their forest without consultation and compensation, failure to establish agreed areas of smallholdings, and failure to receive an agreed development benefit (construction of a church).

First, posts to the website of the NGO supporting the complainants, AMAN Kaltim, describe events in the communities relating to PT Gawi as they took place.[39] For example, a first post in April 2017 describes a road blockade established by the Long Beluah community to protest the company's alleged dumping of oil palm waste into local water sources. A photo accompanying the article shows oil palm waste piled on the riverbank. Subsequent posts that month describe the agreement to end the blockade, which disrupted the plantation's operations, and a meeting held between the community and PT Gawi management. The first post describes the community's

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[37] CAO Policy, para. 91.
[38] CAO Policy, para. 91.
[39] See AMAN's website: http://bit.ly/3ETnqBt; http://bit.ly/3KTRW1P; http://bit.ly/3Yhd3ye; and http://bit.ly/3y50Ge5.

concerns in relation to health impacts and livelihood impacts due to reduced fish stock caused by pollution of waterways, and another describes encroachment on Indigenous lands and forest. Both include demands for PT Gawi to honor the agreement on smallholdings.

CAO believes the contemporaneous nature of the posts supports the credibility of the complaint allegations and provides a basis for concluding that there are preliminary indications of harm.

Second, the issues raised in the complaint are known potential adverse E&S impacts of oil palm plantations, which at the time of IFC's investment had become a global concern. The 2011 WBG Framework and IFC Strategy states that "oil palm has long been criticized for being a major contributor to deforestation…[and] has also been criticized for inequitable benefit sharing with local communities and adverse impacts on [I]ndigenous [P]eoples."[40] Academic studies and reports by environmental groups recorded negative impacts on the quality of water sources and associated health impacts due to palm oil mill effluents (POME)[41] and the use of agrochemicals on oil palm plantations.[42] Additional literature available at the time of project appraisal also show that the complainants cited impacts commonly associated with the palm oil value chain.[43]

Third, IFC confirmed the supply chain link between the client and the PT Gawi plantation that is the subject of the complaint. Moreover, both PT SMU and PT Gawi form part of the same Wings Group vertically integrated business. Lastly, IFC has not contested the alleged harms of the complainants.

Based on the issues raised by the complaint and the considerations above, CAO concludes there are preliminary indications of harm in this case.

b). Relevant IFC Policy Framework and Performance Standards

IFC invested in PT SMU under IFC's 2012 Policy on Environmental and Social Sustainability (Sustainability Policy) and Performance Standards—together referred to as the Sustainability Framework. The Sustainability Policy states that "efforts to carry out investment and advisory activities with the intent to 'do no harm' to people and the environment" are "central to IFC's development mission."[44]

To achieve its mission and its goals, "IFC seeks to ensure, through its due diligence, monitoring, and supervision efforts, that the business activities it finances are implemented in accordance with the requirements of the Performance Standards."[45] The Performance Standards

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[40] WBG Framework and IFC Strategy for Engagement in the Palm Oil Sector, p.4, see also pp. 17–21.
[41] See, for example: Ahmed, AL, Ismail, S. and Bhatia, S. Water Recycling from Palm Oil Mill Effluent (POME) Using Membrane Technology. School of Chemical Engineering, Universiti Sains Malaysia, 2003.
[42] Wakker, E. Greasy Palms: The Social and Ecological Impacts of Large-scale Oil Palm Plantation Development in Southeast Asia, Friends of the Earth, 2005.
[43] See for example: World Bank, Sustaining Economic Growth, Rural Livelihoods and Environmental Benefits: Strategic Options for Forest Assistance in Indonesia, 2006, pp. 29–30. Sheil, D. et al., The Impacts and Opportunities of Oil Palm in Southeast Asia, 2009. Colchester, M. and International Land Coalition, Palm Oil and Indigenous Peoples in South East Asia, 2011, Center for International Forestry Research. Deininger, K. et al., Rising Global Interest in Farmland, 2011, World Bank. Obidzinski, K. et al., Environmental and Social Impacts of Oil Palm Plantations and their Implications for Biofuel Production in Indonesia, Ecology and Society 17(1), 2012.
[44] Sustainability Policy, para. 9. Available at: https://bit.ly/IFCSustainabilityPolicy.
[45] Ibid., para. 7.

requirements apply a mitigation hierarchy to anticipate and avoid adverse impacts on communities and the environment, or where avoidance is not possible, to minimize impacts. The Policy further states that "where residual impacts remain, [risks and impacts must be] compensate[d]/offset for..., as appropriate."[46]

The Sustainability Policy highlights the importance of IFC's environmental and social due diligence (ESDD) of a proposed business activity in its approval process, as it determines the scope of the E&S conditions of IFC financing. Specifically, the Sustainability Policy requires IFC's ESDD to be "integrated into IFC's overall due diligence of the business activity under consideration, including the review of financial and reputational risks," "articulat[ing] its rationale and specific conditions for the proposed activity" to the IFC Board of Directors when the investment is presented for approval.[47]

As part of IFC's due diligence, IFC is required to "review clients' identification of third party risks," which may include a "contractor or primary supplier with whom the business activity has a substantial involvement" in order to "determine whether such risks are manageable, and if so under what conditions, so as to create outcomes consistent with the Performance Standards."[48] For direct investments, IFC's ESDD is required to be "commensurate with the nature, scale, and stage of the business activity, and with the level of environmental and social risks and impacts."[49] ESDD includes "analyzing the business activity's environmental and social performance in relation to the requirements of the Performance Standards."[50]

The Sustainability Policy also requires IFC to "[i]mplement a regular program of supervision for business activities with environmental and social risks and/or impacts in accordance with the requirements of IFC's Environmental and Social Review Procedures."[51] In addition, it requires IFC to "[r]eview project implementation performance…[w]here relevant, to identify and review opportunities for further improving client performance on the sustainability front."[52]

Requirements related to supply chains are outlined in three Performance Standards—PS 1, 2, and 6—and are summarized below. PS2 is excluded in this case given that issues of child labor, forced labor, and safety related to supply chain workers are not among the complaint issues.

In addition, the following are the Performance Standards raised in the context of the complaint which are relevant to the question of IFC's project ESDD:[53]

- PS1 on Assessment and Management of E&S Risks and Impacts

  "Where the client can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary supply chains, as defined

[46] Ibid., para. 6.
[47] Ibid., para. 21.
[48] Ibid., para. 23.
[49] Ibid., para. 26.
[50] Ibid., para. 28.
[51] Ibid., para. 45.
[52] Ibid.
[53] Ibid., para. 23.

in Performance Standard 2 (paragraphs 27–29) and Performance Standard 6 (paragraph 30)."[54]

- PS3 on Resource Efficiency and Pollution Prevention

Objectives of PS3 include "avoid[ing] or minimize[ing] adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities."[55] As relevant to the complaint, PS3 establishes requirements to avoid or minimize pollution in relation to the release of pollutants to water, generation of hazardous and non-hazardous waste, and pesticide use.[56]

- PS4 on Community Health, Safety, and Security

"The project's direct impacts on priority ecosystem services may result in adverse health and safety risks and impacts to Affected Communities."[57] In this case, provisioning services are the relevant ecosystem service, specifically the alleged decline in freshwater quality and associated health impacts.

- PS5 on Land Acquisition and Involuntary Resettlement

PS5 establishes requirements to "anticipate and avoid, or where avoidance is not possible, minimize adverse social and economic impacts from land acquisition or restrictions on land use by (i) providing compensation for loss of assets at replacement cost and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected."[58]

- PS6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources

"Where a client is purchasing primary production (especially but not exclusively food and fiber commodities) that is known to be produced in regions where there is a risk of significant conversion of natural and/or critical habitats, systems and verification practices will be adopted as part of the client's ESMS to evaluate its primary suppliers."[59]

PS6 sets out requirements to identify direct and indirect impacts on biodiversity and ecosystem services, including relevant threats to habitat loss, degradation and fragmentation,

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[54] PS1, para. 10. Also, per PS1 Guidance Note 53, FN9: "A primary supplier is a supplier who on an ongoing basis forms part of the supply chain of goods or materials essential for the core business processes of the project. A primary supplier may supply its goods or materials directly to the project (a Tier I primary supplier), to the Tier I primary supplier (a Tier II primary supplier) or may be at a deeper tier of the primary supply chain. [Introduced June 14, 2021]."
[55] PS3, Objectives.
[56] Ibid., paras. 10-17.
[57] PS4, para. 8.
[58] PS5, Objectives.
[59] PS6, para. 30. Further, PS6 elaborates on the systems and verification practices: "i) identify where the supply is coming from and the habitat type of this area; ii) provide for an ongoing review of the client's primary supply chains; iii) limit procurement to those suppliers that can demonstrate that they are not contributing to significant conversion of natural and/or critical habitats (this may be demonstrated by delivery of certified product, or progress towards verification or certification under a credible scheme in certain commodities and/or locations); and iv) where possible, require actions to shift the client's primary supply chain over time to suppliers that can demonstrate that they are not significantly adversely impacting these areas. The ability of the client to fully address these risks will depend upon the client's level of management control or influence over its primary suppliers" (para. 30).

hydrological changes, and pollution.[60] Further, for clients engaged in the primary production of living natural resources, including agriculture, living natural resources will be managed "in a sustainable manner, through the application of industry-specific good management practices and available technologies."[61]

- PS7 on Indigenous Peoples

PS7 establishes requirements to: a) "anticipate and avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not possible, to minimize and/or compensate for such impacts;" b) "promote sustainable development benefits and opportunities for Indigenous Peoples in a culturally appropriate manner;" and c) "ensure the Free, Prior, and Informed Consent (FPIC) of the Affected Communities of Indigenous Peoples" under specified circumstances, such as when adverse impacts may be expected on lands and natural resources subject to traditional ownership or under customary use.[62]

IFC's E&S Review Procedures (ESRP) provide management-approved guidance on IFC's due diligence and supervision responsibilities for E&S performance. The relevant ESRP for this project during due diligence is the August 2009 version, and for supervision, the April 2013 version.[63]

For due diligence of direct investments, the ESRP notes the possibility that "risks posed by a vertically integrated company, where the same company owns, or has direct influence upon, several levels (echelons) of the supply chain, are greater than the risks posed by a pure commodity trader who does not own or influence any levels of the supply chain and that all they do is trade or exchange of raw or primary products."[64] While this guidance refers to trade finance, the underlying principle that "the risks of the prospective client company, its operations, holdings and activities"[65] should be assessed applies to the PT SMU investment.

According to IFC's ESRP, supervision activities include a review of all project-related information that may become available during the life of the investment. This includes defining any changed project circumstances that were not anticipated during investment appraisal and could result in adverse E&S risks and/or impacts. Under such circumstances, IFC is required to then advise the client on managing E&S project issues.[66]

Also relevant to IFC's investment in PT SMU is the 2011 World Bank Group (WBG) Framework and IFC Strategy for Engagement in the Palm Oil Sector (WBG Framework and IFC Strategy).[67] Three of the four pillars in the WBG Framework considered key areas for successful development in the sector are particularly important. These are: mobilization of sustainable private-sector investments; benefit sharing with smallholders and communities; and sustainable codes of practice for producers and buyers of palm oil.

[60] PS6, para. 6.
[61] Ibid., para. 26.
[62] PS7, Objectives and paras. 11–14.
[63] IFC ESRP, version 4.0, August 2009.
[64] Ibid., para. 2.2.4.
[65] Ibid.
[66] IFC ESRP (2013) 6.2.1
[67] WBG Framework and IFC Strategy for Engagement in the Palm Oil Sector, 2011.

Regarding IFC's 2011 palm oil strategy, two elements stand out in relation to this case: to engage selectively with key private sector partners in the industry's supply chain who demonstrate best practice in E&S sustainability, and community and stakeholder engagement. When considering a proposed private-sector investment, the first steps are to conduct:

- An early assessment including a country situation analysis for the palm oil sector; and
- A project risk screening and assessment to consider the country and sector context and E&S concerns associated with the sector, including supply chain management.[68]

In addition, the IFC Strategy provides practical guidance on supply chain risk management.

c). Preliminary Analysis of IFC Policy Compliance

A CAO compliance appraisal must consider whether there are "preliminary indications that IFC/MIGA may not have complied with its E&S Policies."[69] In this case, CAO finds preliminary indications that IFC may not have adequately reviewed and supervised its investment in PT SMU with respect to its E&S requirements. These potential failures relate to the issues and Sustainability Framework requirements outlined above and specified below.

Compliance with requirement for environmental and social due diligence

The overarching requirements in the IFC Sustainability Policy and ESRP to carry out due diligence of a business activity's E&S, financial, and reputational risks are central to the review of this complaint. Given IFC's engagement with the client against the backdrop of the newly developed WBG Framework and IFC Strategy for Palm Oil, it is critical to understand how IFC approached its due diligence and supervision obligations, particularly in relation to the supply of palm oil derivatives to the client from a company that was part of the same vertically integrated business.

CAO finds preliminary indications that IFC may not have properly applied its Sustainability Policy requirement to the project for pre-investment ESDD that is commensurate with the nature of the business activity and with the level of E&S risks and impacts. The ESDD requirement includes a review of reputational and third-party risks with the aim of creating outcomes consistent with the Performance Standards. Of particular relevance in this case are the following:

- PS3 on Resource Efficiency and Pollution Prevention
- PS4 on Community Health, Safety, and Security
- PS5 on Land Acquisition and Involuntary Resettlement
- PS6 on Biodiversity Conservation Sustainable Management of Living Natural Resources
- PS7 on Indigenous Peoples.

In addition, CAO finds preliminary indications that IFC may not have verified the proper application of PS1 to the project in relation to assessment of E&S risks and impacts associated with primary supply chains.

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[68] Ibid., p. 44.
[69] CAO Policy, para. 91.

CAO concludes there are preliminary indications that the IFC Sustainability Policy and relevant Performance Standards (PS1, PS3, PS4, PS5, PS6, and PS7) requirements may not have been properly taken into account in the case of PT SMU on the following basis:

- Available documentation suggests that IFC may not have conducted ESDD commensurate with the nature, scale, and stage of the business activity, and with the level of E&S risks and impacts associated with the palm oil value chain, as required by the Sustainability Policy. Particularly salient is documentation that, on the one hand, notes IFC's awareness of potential reputational risks due to E&S issues at Wings Group oil palm plantations, and, on the other hand, lacks an assessment of the actual E&S risks from these same plantations.[70] Specifically, IFC's November 2022 Management Response notes that at the time of project due diligence, IFC was "fully aware of the E&S risks associated with the palm oil value chain in Indonesia."[71] However, IFC documentation indicates that an assessment of the Wings Group oil palm plantations was not considered within the scope of IFC's ESDD. In addition, IFC's report to the Board requesting approval of the PT SMU investment made no mention of the company's palm oil supply chain.

  Available documentation suggests that, during pre-investment E&S due diligence, IFC did not review PT SMU's identification of third-party risks, such as the client's primary suppliers, as required by the Sustainability Policy. Nor did IFC analyze the business activity's E&S performance in relation to the Performance Standards requirements.

  IFC's potential shortcomings in its ESDD are noteworthy considering:

  a) Adoption of the 2011 WBG Framework and IFC Strategy, underscoring the importance of identifying and managing risks to Indigenous Peoples, forest conversion, and natural resources in the palm oil sector, which drove the resumption of lending to the palm oil sector after an 18-month global moratorium;

  b) IFC's early documented knowledge of palm oil use in the client's business, as well as relevant information from an earlier IFC investment in PT Gawi; and

  c) Guidance available in IFC's 2013 Good Practice Handbook on Assessing and Managing E&S Risks in an Agro-Commodity Supply Chain specific to palm oil supply chain mapping and assessment requirements in the structure and due diligence of IFC projects.

- CAO was not provided with documentation that indicates that IFC verified its client's review of third-party risks with a view to creating outcomes consistent with PS3, PS4, PS5, PS6, and PS7 in the context of its supply chain.

- Based on a preliminary review of available documentation, IFC did not require its client to carry out supply chain mapping and risk assessment, as required by PS1.[72] Further, there

[70] In addition, a preliminary review of project documentation suggests that IFC did not consider the proposed project to involve financing linked to the palm oil sector.
[71] IFC Management Response, para. 13.
[72] There is no documentation of an assessment of the client's leverage and ability to influence the primary suppliers. Available documentation from IFC's pre-investment ESDD indicates that IFC focused on financial exposure. While project documentation noted an awareness of potential reputational risks due to E&S issues related to the Wings Group oil palm plantations, there is no assessment of E&S risks in relation to the PT SMU supply.

is no documentation of an IFC assessment of the client's leverage and ability to influence its primary suppliers. This is inconsistent with the known presence of Wings Group companies throughout the PT SMU supply chain. This linkage was confirmed in an IFC supply chain tracing exercise for PT SMU in May 2019, using data from 2018. The results include Wings Group subsidiaries PT Gawi (plantations and mills) and PT Ecogreen Oleochemicals (refinery) (see Figure 1, page 8). IFC documentation also indicates that IFC was aware of the Wings Group's vertically integrated business strategy. Additionally, IFC had previously financed Wings Group's palm oil supply chain subsidiaries, PT Gawi from 2001–2007 and PT Ecogreen Oleochemicals from 2003–2012.[73]

IFC's Management Response asserts that the project's ESDD was aligned with PS1 because: a) the supply chain did not include any ongoing supplier relationships; b) the client had limited control or leverage over its suppliers due to the procurement of oleochemicals on a spot basis from four oleochemical suppliers; and c) traceability to upstream suppliers was not available.[74] This conclusion is not consistent with IFC project documentation indicating that the client maintained long-term supplier contracts.[75]

- The potential failure to assess E&S risks and impacts in PT SMU's supply chain resulted in Board approval of the project without any relevant ESAP items or E&S conditions of disbursement that could have been informed by the results of the ESDD, as required by the Sustainability Policy.[76] In the ESRS disclosed by IFC prior to its investment, there is no mention of palm oil use in the client's business or of the Wings Group's oil palm plantations.

Compliance with requirement for investment supervision

CAO finds preliminary indications that IFC may not have properly applied its Sustainability Policy requirements for project supervision during the life of the PT SMU investment. Specifically, IFC may have failed to review relevant project-related information that became known and, on the basis of that information, provide advice to the client on managing the E&S issues. In addition, IFC may have failed to require its client to assess and mitigate/compensate for any residual impacts prior to prepayment by its client.

Preliminary indications are as follows:

- Available documentation does not indicate that IFC addressed potential adverse E&S risks and/or impacts related to Wings Group plantations and mills that came to light during ESDD of a related Advisory Services (AS) project.[77] IFC developed this AS project in

[73] Supply chain tracing exercise, 2018.
[74] IFC Management Response, para. 14.
[75] Based on the available information, there is also a lack of evidence to substantiate the claim that procurement from four suppliers does not constitute an ongoing supplier relationship, given the fact that PT SMU would have required repeat purchases of oleochemicals from the same suppliers. Furthermore, in this case, the number of suppliers from whom spot purchases were made was limited, suggesting that a supply chain assessment could reasonably have been conducted.
[76] Sustainability Policy, para. 21.
[77] The Advisory Services project aimed to assist independent smallholder farmers to produce certified sustainable palm oil. IFC, Summary of Advisory Services Project Information for IFC project no. 594007, 2013. Available at: https://bit.ly/AS594007-ASPI.

parallel to the PT SMU investment as a mitigation measure against reputational risk relating to the Group's oil palm plantations. The ESDD for the AS project, conducted in October 2013, pointed to serious issues within the Wings Group plantations and mills operations. These issues consisted of gaps in occupational health and safety risk mitigation measures, protection of high conservation value areas, proactive communication and relationship management with surrounding communities, and mill cleanliness. As a result, IFC decided not to proceed with an AS project for the Wings Group plantations and mills. However, CAO is not aware of any actions IFC took with the client to address the negative findings of the ESDD.

- In May 2019, IFC confirmed a supply chain link between PT SMU and PT Gawi. To CAO's knowledge, IFC subsequently made no effort to further assess supply chain risks and/or work with the client on potential mitigation measures, including upon exit of the investment when the client prepaid.
- Prior to the client's prepayment, available documentation does not indicate that IFC required its client to assess and mitigate/compensate for any residual impacts of its investment in PT SMU.

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

A CAO compliance appraisal must consider whether "the alleged Harm is plausibly linked to the potential non-compliance."[78] In this case, CAO concludes that the alleged harms to complainants by a supplier of the IFC client are plausibly linked to potential shortcomings in IFC's application of Sustainability Framework requirements to the project. In reaching this conclusion, CAO took the following considerations into account:

- 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. CAO notes that an IFC client company can be directly linked to adverse E&S risks and impacts through its business relationships, which can include businesses several tiers down a value chain.[79]
- The preliminary indications of harm identified in this appraisal are the types of issues that IFC's Sustainability Framework seeks to avoid and mitigate. As such, it is reasonable to suggest that IFC might have addressed the impacts and risks raised in the complaint by applying the relevant Sustainability Policy requirements and Performance Standards.
- The available documentation indicates that IFC's pre-investment due diligence did not assess the potential E&S risks and impacts within PT SMU's supply chain, including an

[78] CAO Policy, para. 91c.
[79] OHCHR, The Corporate Responsibility to Respect: An Interpretive Guide, p.5, at: https://bit.ly/3zuLgSl; OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights (UNGPs), 2011, available at: https://www.oecd.org/corporate/mne/ and https://bit.ly/3S72BpP, and OHCHR response to request from BankTrack and OECD Watch for advice regarding the application of the UN Guiding Principles on Business and Human Rights where private-sector banks act as nominee shareholders, August 30, 2021, p.4.

assessment of leverage or control. Nor did IFC require any assessment from its client, even though Wings Group links are found at each level of the client's supply chain. Further, Wings Group is a vertically integrated business, suggesting there were reasonable opportunities for PT SMU to exercise at least some measure of leverage and/or management control of its supply chain to address potential E&S risks. However, IFC did not take any measures to structure the project in a manner that increased the client's potential control and leverage within its supply chain.

- There are preliminary indications that IFC did not take action once it had specific knowledge about E&S issues at Wings Group plantations and mill operations. The ESDD for the Advisory Services project, which included a site visit to Wings Group plantations and mill operations, provided IFC with clear indications of adverse E&S impacts relating to many of the same areas of concern raised by the complainants. However, IFC does not appear to have followed up on the concerns raised in the AS due diligence in relation to supply chain linkages with its PT SMU project.
- At this compliance appraisal stage, the allegedly small percentage of PT Gawi fresh fruit bunches procured by PT SMU does not negate a plausible link between potential IFC non-compliance and alleged harm to the communities from a plantation that is part of the same vertically integrated business. Indeed, in its 2018 supply chain tracing exercise, IFC confirms a direct sourcing link between PT SMU and PT Gawi.
- Moreover, in the 2018 supply chain tracing exercise, 97 percent of PT Gawi fresh fruit bunches was identified as milled by PT Gawi itself before transitioning into a complex chain of refineries.[80] One of these refineries is a Wings Group shareholding that supplies PT SMU as well as other major companies known to supply PT SMU.
- At the same time, the significance of the alleged community impacts must be acknowledged in the context of known Wings Group supply chain links. IFC confirms that PT Gawi fresh fruit bunches remain in the Wings Group supply chain, including PT SMU. Consequently, alleged harms to communities from PT Gawi plantations remain intrinsically linked to that supply as it moves through the supply chain, regardless of the final percentage of fresh fruit bunches procured by manufacturers, including PT SMU.

e). Additional Policy Requirements for Consideration in the Appraisal

According to the CAO Policy, a CAO compliance appraisal must take into account a series of additional considerations.[81] In this case, because the client prepaid all outstanding balances to IFC in December 2019, CAO must consider the following:

[80] A deeper analysis of the interlinkages between the mills, refineries, and PT SMU procurement processes is required to definitively determine the actual percentage of PT Gawi fresh fruit bunches procured by PT SMU.
[81] CAO Policy, para. 92.

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.[82]

CAO has concluded that, despite the IFC Exit,[83] a compliance investigation would in this case provide value in terms of accountability, learning, or remedial action for the following reasons:

- It is unclear to CAO whether IFC is guided by good international industry practice relating to palm oil supply chain mapping and assessment requirements in the structure and due diligence of its projects. IFC's view on the applicability of PS1 requirements on supply chain analysis, as articulated in its November 2022 Management Response to this case, echoes the view maintained by IFC in its 2004–2008 investments in the Wilmar Group.[84] The CAO audit of these earlier investments resulted in the World Bank Group President ordering an 18-month moratorium on palm oil sector investments. Yet, in relation to PT SMU, IFC does not appear to take into account the lessons learned from the 18-month moratorium, IFC's own review of its palm oil sector investments, and the subsequent WBG Framework and IFC Strategy. In the Wilmar investments, IFC determined that a supply chain assessment was not required, based on (a) a lack of traceability of crude palm oil to plantations due to procurement on the open market, and (b) only a small portion of its supply being sourced from Wilmar's plantations.[85] CAO's 2009 audit concluded that IFC's narrow interpretation of the investment's impacts was inconsistent with its commitment to sustainable development.[86] IFC's position in 2009 is reiterated in its Management Response to the current complaint—contrary to guidance in IFC's 2013 Good Practice Handbook on Assessing and Managing E&S Risks in an Agro-Commodity Supply Chain as well as that provided in the WBG Framework and IFC Strategy.[87]
- The findings of a CAO investigation into the PT SMU investment could support enhancements to both the IFC Palm Oil Strategy and IFC Good Practice Handbook, given that significant time has elapsed since they were developed.. Corporate practices regarding palm oil in the supply chain have evolved considerably over the last ten years and the learnings from this experience should be factored into IFC strategy and practice.

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[82] Ibid., para. 92a.

[83] The CAO Policy glossary defines an IFC Exit as: "With respect to any Project, the earlier of (i) the termination of the financing, investment, or advisory relationship with the Client for such Project pursuant to the applicable Project agreements; or (ii) when the Project ceases to exist, or the Project has been dropped by IFC after Board approval." In this case, the former applies.

[84] CAO 2009 Audit. CAO Investigation of IFC Environmental and Social Performance in Relation to: Delta-Wilmar 03/Jambi (#25532 and #26271), March 8, 2016. Available at: https://officecao.org/Wilmar03Investigation.

[85] CAO 2009 Audit, p. 23, para. 2.2.7; CAO 2016 Investigation, p. 29.

[86] CAO 2009 Audit, pp. 1–2.

[87] According to IFC's 2013 Good Practice Handbook on Assessing and Managing E&S Risks in an Agro-Commodity Supply Chain, in order to "determine an IFC client's leverage and ability to influence the primary suppliers, its supply chain mapping and risk assessment must describe the supply chain structure and characteristics, identifying all intermediary steps, all players, and the nature of the transactions between primary producers and the client" (p. 64). Similarly, the 2011 WBG Framework and IFC Strategy states that "[t]he practice is for the client to conduct a mapping exercise that identifies the supply chain." Where the client lacks leverage and cannot meet PS requirements, the WBG Framework and IFC Strategy states that "the client is expected to change suppliers, where possible" (p. 47). IFC's Good Practice Handbook also provides clear guidance for such situations, noting that the client "should lower risk by changing suppliers as needed" (p. 64).

- The upcoming review of the IFC Performance Standards provides another avenue for CAO to support greater consistency and clarity in IFC's due diligence and supervision practices relating to supply chain issues.
- CAO is of the view that IFC can explore opportunities, such as working in partnership with others, to demonstrate its commitment and efforts related to supply chain ESDD and supervision responsibilities and cement the use of good international industry practices relating to supply chain risk management. This would be especially useful in cases of vertically integrated operations where the risk to the financing institution is particularly acute. Such opportunities may arise in the specific context of the Wings Group value chain, but may also apply more broadly, given the evolution of practices by the corporate sector over the past decade since IFC made this investment.

None of the other considerations listed in paragraph 92 of the CAO Policy are relevant in this case. Analysis of each of the other considerations is presented in Appendix 3.

7. CAO Decision

As the appraisal criteria are met and the considerations under paragraph 92a have been duly considered, CAO will proceed to conduct a compliance investigation following the CAO Policy. Terms of reference for the investigation are included in the appendices to this report along with the complaint and IFC response. The draft compliance investigation report will be completed by April 2024.

This appraisal report will be shared with the Board, the World Bank Group President, IFC management, the client, and the complainants. CAO will publish this appraisal report and IFC's Management Response on its website.[88]

[88] CAO Policy, para. 106.

Appendix 1: Complaint

[Translated text of the original complaint. Complainant names have been removed.]

Samarinda, November 15, 2018

We are writing you this letter to file a complaint about Palm Oil plantation company, PT. Gawi Plantation which is a subsidiary company of Wings Group, one of IFC Indonesia client. We are filing this complaint on behalf of Long Beluah Indigenous people who live in Long Beluah village, Tanjung Palas Barat District, Bulungan Regency, North Kalimantan Province, Indonesia. Our community have been affected by the activities of this plantation.

For years we have been protesting and complaining to this company which disposing their palm waste in our river which is the source of our clean water for our community. Beside that, we are pursuing plasma that had been promised by the company. The activity of this company have been impacting and harm us both economically and environmentally.

The meeting processes the whole last year didn’t work out. The company is not serious to respond our complaints which impacting our social and environment. In fact, some of our community members were charged of the debt of plasma. Some information about this case can be accessed at kaltim.aman.or.id as well as in this complaint letter.

We need to resolve this complaint, specially regarding the palm oil waste, the plasma and the clarity about our lands and forests as our source of livelihood and the future of our children and grandchildren.

Therefore, we request the involvement of CAO-IFC to work towards resolving disputes between our community and PT Gawi Plantation / Wings Group and hope there will be mutual respect and good cooperation between all parties and the fulfillment of social and environmental standards that must be obeyed by the company.

Appendix 2: IFC Management Response

INTERNATIONAL FINANCE CORPORATION

MANAGEMENT RESPONSE

TO THE CAO COMPLAINT

ON

SAYAP MAS UTAMA (SMU) #32208

INDONESIA

November 8th, 2022

TABLE OF CONTENTS

ABBREVIATIONS AND ACRONYMS

AMAN	Alliance of Indigenous Peoples of the Archipelago
CAO	Office of the Compliance Advisor Ombudsman
CPO	Crude Palm Oil
E&S	Environmental and Social
ESDD	Environmental and Social Due Diligence
FFB	Fresh Fruit Bunches
IFC	International Finance Corporation
MIGA	Multilateral Investment Guarantee Agency
NGO	Non-Governmental Organization
PKO	Palm Kernel Oil
PS	IFC's Performance Standards
PT	Perseroan Terbatas (Limited Company)
GMK	Gawi Makmur Kalimantan
HS	Harum Alam Segar
ISP	Intl Seleras Perkasa
MAS	Murni Alam Segar
SMU	Sayap Mas Utama
TAS	Tirta Alam Segar

EXECUTIVE SUMMARY

i. On May 27, 2013, IFC invested US$88 million in loan packages (US$44 million A-Loan and US$44 million syndicated B-loan) to a group of companies sponsored by The Wings Group in Indonesia. The loans were part of a US$176 million project to: (i) expand beverage product lines under Tirta Alam Segar (TAS); (ii) expand fruit-flavored beverage in plastic cups under Murni Alam Segar (MAS); (iii) commission a green-field coffee mix production under Harum Alam Segar (HAS); and (iv) increase the capacity of the existing detergent business under Sayap Mas Utama (SMU). The above financing was converted into four separate projects in June 2013, leaving only SMU (the "Client") as an IFC client under project #32208 (the "Project").

ii. The Client produces laundry detergent utilizing two oleochemicals (lauryl myristyl alcohol and fatty alcohol ethoxylate). The oleochemicals are refined through an industrial process that blends Crude Palm Oil (CPO) and Palm Kernel Oil (PKO). The refineries source CPO/PKO from traders, small- and large-scale mills, and hundreds of plantations (large estates and smallholders) across Indonesia.

iii. In November 2018, a complaint was lodged with the Office of the Compliance Advisor Ombudsman (CAO) by the nongovernmental organization (NGO) Alliance of Indigenous Peoples of the Archipelago Kalimantan Timur (AMAN Kaltim), on behalf of the communities of Long Beluah and Long Lian. The complaint alleged that the communities were concerned about the environmental and social (E&S) impacts of the palm oil plantation operated by Intl Seleras Perkasa (ISP). ISP supplies palm fruits to a primary processor that feeds into the value chain of secondary processors which supply (on request) oleochemicals to SMU. The complaint raised concerns about: (i) water pollution, (ii) failure to implement palm oil out-grower scheme, (iii) failure to build a church, and (iv) clearing of community land by ISP without consultation.

iv. In February 2019, CAO determined the complaint to be eligible. While CAO acknowledged that ISP is neither directly nor indirectly financed by IFC, CAO accepted the complaint based on the fact that the Client sourced oleochemicals from third-party refineries, which in turn sourced a portion of their palm oil from ISP. In May 2019, IFC provided CAO with information related to the supply chain and its environmental and social due diligence (ESDD) on the Project.

v. As part of its ESDD for the Project, IFC carefully reviewed the E&S risks associated with the sourcing of the oleochemicals. The Client procured these oleochemicals on a spot basis from four oleochemical manufacturers. The supply chain did not include any ongoing supplier relationships, and IFC concluded that the Client did not have management control and/or leverage to propose mitigation measures in its raw material sourcing, given the layers between the Client and other suppliers. It further concluded that there was no alternative sourcing of raw materials within the palm oil value chain in Indonesia. Accordingly, the ESDD was aligned with IFC's Performance Standard (PS) 1.

vi. Under the CAO Policy, a compliance investigation can be initiated if the following criteria are met: (a) there are preliminary indications of Harm or potential Harm; (b) there are preliminary indications that IFC may not have complied with its E&S Policies; and (c) the alleged Harm is plausibly linked to the potential non-compliance.

- For the reasons outlined above, IFC concluded that its ESDD was aligned with PS1 and, accordingly, believes there is no non-compliance with its E&S Policies.

- Moreover, based on a 2019 supply chain risk assessment, including traceability, of the linkage between the Client and ISP, IFC concluded that only a small fraction of the Client's raw materials was estimated to be indirectly sourced from ISP. As a result, IFC considers that there is no plausible link between any potential non-compliance and the alleged Harm or potential Harm.

vii. On December 16, 2019, the Client prepaid all outstanding IFC loan balances. At the time of that payment, there was still no ongoing supply relationship between the Client, GMK and subsequently ISP.

I. INTRODUCTION

1. In November 2018, the Office of the Compliance Advisor Ombudsman (CAO) received a complaint from the Alliance of Indigenous Peoples of the Archipelago Kalimantan Timur (AMAN Kaltim), a local nongovernmental organization (NGO), on behalf of the Long Beluah and Long Lian communities in the Province of North Kalimantan, Indonesia (the "Complainants").

2. The Complainants raised concerns related to a palm oil plantation in North Kalimantan operated by a company Intl Seleras Perkasa (ISP), one of three plantations under the Gawi Makmur Kalimantan (GMK, or "Gawi") umbrella. CAO found the complaint eligible in February 2019, based on the fact that Sayap Mas Utama (SMU), an IFC client (the "Client"), sourced oleochemicals from third-party refineries which, in turn, sourced a portion of their palm oil from GMK, which sources palm fruits or Fresh Fruit Bunches (FFB) from ISP, one of several palm plantations under GMK.

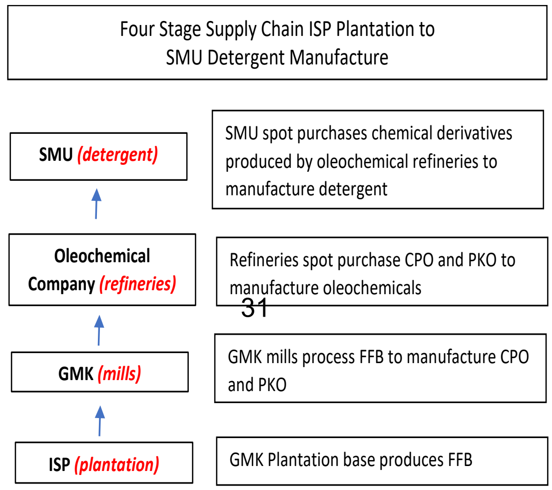
II. PROJECT BACKGROUND

3. On May 27, 2013, IFC invested US$88 million in loan packages (US$44 million A-Loan and US$44 million syndicated B-loan) in a group of four companies sponsored by The Wings Group in Indonesia. The loans were part of a US$176 million project to: (i) expand beverage product lines under Tirta Alam Sagar (TAS), (ii) expand fruit-flavored beverage in plastic cups under Murni Alam Sagar (MAS), (iii) commission a green-field coffee mix production under Harum Alam Segar (HAS), and (iv) increase the capacity of the existing detergent business under SMU. The above financing was converted into four separate projects in June 2013, leaving only SMU (the "Client") as an IFC client under project #32208 (the "Project").

4. The Client produces laundry detergent, which contained surfactants such as alcohol ethoxylates. The Client's production process used two oleochemicals (lauryl myristyl alcohol and fatty alcohol ethoxylate). The oleochemicals are produced by refineries through an industrial process that blends Crude Palm Oil (CPO) and Palm Kernel Oil (PKO). The refineries sourced CPO/PKO from traders, small- and large-scale mills, and hundreds of plantations (large estates and smallholders) across Indonesia.

5. The Client's procurement of the oleochemicals was through spot purchases from four refineries, with decisions based on price, quality, quantity, and availability. ISP supplies palm fruits to a primary processor (i.e., GMK), that feeds into the value chain of secondary processors (refineries), which supply (on request) a refined product to the Client (i.e., SMU). Neither the Client nor the oleochemical refineries had a direct supplier relationship with ISP. IFC estimated that less than 2 percent of the Client's CPO and PKO were sourced from ISP. Figure 1 provides a simple illustration of the Client's supply chain for its oleochemicals, noting that there are three tiers of suppliers between ISP and the Client.

Figure 1: Illustration of SMU and ISP Supply Relationship



6. On December 16, 2019, the Client prepaid all outstanding loan balances on its debt owed to IFC, and there is no remaining Client exposure[1].

III. CAO COMPLAINT

7. In November 2018, a complaint was lodged with CAO by AMAN Kaltim, on behalf of the communities of Long Beluah and Long Lian. The complaint alleged that the communities were concerned about the environmental and social (E&S) impacts of the palm oil plantation operated by ISP. The complaint raised concerns about: (i) water pollution, (ii) failure to implement palm oil out grower scheme,[2] (iii) failure to build a church, and (iv) clearing of community land by ISP without consultation.

8. In February 2019, CAO determined that the complaint was eligible. While CAO acknowledged that ISP is neither directly nor indirectly financed by the IFC, CAO accepted the complaint based on the fact that the Client sources oleochemicals from third-party refineries, which in turn sourced a portion of their palm oil from GMK, which sources palm fruits from ISP. In May 2019, IFC provided CAO with information related to the supply chain and its environmental and social due diligence (ESDD) for the Projects.

9. IFC also facilitated communications between CAO and the Client. In addition, IFC coordinated with SMU management to introduce CAO staff to GMK and supported CAO (as needed) in its engagements with the Complainants.

10. During CAO's assessment process, the Complainants and ISP entered into a CAO-facilitated mediation that lasted approximately three years. Failing to reach an agreement by March

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[1] CAO Assessment Report, Regarding Concerns in Relation to IFC's Investment in Wings Group (#32208) in Indonesia, pg. 5 (November 2019).

[2] Government of Indonesia-mandated "plasma" scheme consistent with prevailing regulations for palm oil plantation development requires 20% of net plantation area be allocated to local communities for rural economic development.

2022, the mediating parties sought to terminate discussions, and the case was transferred to CAO's compliance function.[3] The Client was not part of this mediation process.

IV. MANAGEMENT RESPONSE

11. As noted above, CAO found the case eligible based on the Client's sourcing of oleochemicals from third-party refineries, which in turn sourced a portion of their CPO and PKO from GMK and subsequently ISP. Therefore, IFC understands that CAO seeks to determine whether IFC complied with its E&S Policies as they pertain to the management of E&S risks and impacts in the supply chain of the Client, alongside other appraisal criteria.

12. IFC Performance Standard (PS) 1 (paragraph 10) and the accompanying Guidance Note 1 state that: "Generally, where the client can reasonably exercise control, the client should collaborate with its primary suppliers to propose mitigation measures proportionate to identified risks on a case-by-case basis, while recognizing that assessing and addressing supply chain implications beyond the first or the second tier suppliers may not be practical or meaningful to the client or the supplier."[4] In 2021, IFC updated the PS1 Guidance Note to further clarify its interpretation of primary supply chains.[5]

13. At the time of the appraisal, IFC was fully aware of the E&S risks associated with the palm oil value chain in Indonesia. In 2010, there had been an 18-month palm oil moratorium imposed by the World Bank President, which led to the preparation of the World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector.[6]

14. IFC carefully reviewed the E&S risks associated with the sourcing of the oleochemicals. IFC communicated and worked with the Client to identify ways that those risks could be mitigated. The Client procured the oleochemicals on a spot basis from four oleochemical suppliers. The supply chain did not include any ongoing supplier relationships. As such, the Client had very limited control or leverage over the environmental, health and safety (EHS) management practices of its Tier I suppliers and traceability to upstream suppliers (e.g., GMK and ISP) was not available. Ultimately, IFC concluded that given the several layers between the Client and other suppliers, the Client did not have management control and/or leverage to propose mitigation measures in its raw material sourcing so as to manage E&S risks. IFC further concluded that there was no alternative sourcing of raw materials based on the palm oil value chain in Indonesia.

15. Therefore, the project ESDD was aligned with PS1, since the Client could not reasonably exercise control or leverage over its suppliers, and no alternatives were feasible.

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[4] IFC Guidance Note 1: Assessment and Management of Environmental and Social Risks and Impacts, published January 1, 2012 (updated June 14, 2021). https://www.ifc.org/wps/wcm/connect/6df1de8f-2a00-4d11-a07c-09b038f947b/GN1_English_06142021_FINAL.pdf?MOD=AJPERES&CVID=nXqn5Ts.

[5] "A primary supplier is a supplier who on an ongoing basis forms part of the supply chain of goods or materials essential for the core business processes of the project. A primary supplier may supply its goods or materials directly to the project (a Tier I primary supplier), to the Tier I primary supplier (a Tier II primary supplier) or may be at a deeper tier of the primary supply chain." Guidance Note 1, Footnote 9.

[6] World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector: https://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/agribusiness/resources/palmoil_strategydocument

16. IFC concluded that its ESDD was aligned with PS1 and, accordingly, believes there is no non-compliance with its E&S Policies. Additionally, in terms of whether the alleged Harm is plausibly linked to the potential non-compliance, based on a 2019 supply chain risk assessment, including traceability of the linkage between the Client, GMK and ISP IFC concluded that only a small fraction of the Client's raw materials was estimated to be indirectly sourced from GMK and subsequently ISP. IFC considers that there is no plausible link between any potential non-compliance and the alleged Harm or potential Harm.

V. CONCLUSION

17. IFC appreciates CAO's efforts in seeking a mediated agreement to the concerns raised by the Complainants. IFC concludes that in accordance with its E&S Policies it adequately considered E&S risks in the Client's supply chain, and applied the relevant PSs, including evaluating alternative approaches to mitigate existing risks. IFC further considers that given the limited volume of raw materials likely to be indirectly sourced from ISP, any potential link between IFC's ESDD and supervision, and any indications of Harm would be negligible and, accordingly, there is no plausible link between any potential non-compliance and the alleged Harm or potential Harm.

18. Finally, on December 16, 2019, SMU prepaid all outstanding IFC loan balances. As of the date of this Management Response, IFC has no remaining investment exposure to any of the entities listed in the CAO's Assessment Report and CAO's October 2022 Dispute Resolution Conclusion Report.

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: Considerations Relevant to the Appraisal per CAO Policy

The CAO Policy[89] 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).	CAO has concluded that, despite the IFC Exit, an investigation would provide value particularly given that the WBG Framework and IFC Strategy and IFC Good Practice Handbook were developed more than a decade ago.
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).	As outlined in the body of this report, CAO finds preliminary indications of non-compliance. In this context, CAO concludes that IFC has not clearly demonstrated that it dealt appropriately with issues raised by the complaint, nor has IFC acknowledged non-compliance with relevant E&S Policies.
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).	IFC's Management Response does not include any statements indicating plans to undertake remedial actions to address issues raised by complainants for appraisal.
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.

[89] CAO Policy, para. 92.

Appendix 4: Terms of Reference for the Compliance Investigation

Terms of Reference for Compliance Investigation of IFC's Environmental and Social Performance in relation to its Investment in Wings Group's PT SMU, Indonesia

IFC Project #32208

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.

Dispute Resolution	Compliance	Advisory
CAO helps resolve issues raised about the environmental and/or social impacts of projects and/or sub-projects through a neutral, collaborative, problem-solving approach and contributes to improved outcomes on the ground.	CAO carries out reviews of IFC/MIGA compliance with the E&S policies, assesses related harm, and recommends remedial actions to address non-compliance and harm where appropriate.	CAO provides advice to IFC/MIGA and the Boards with the purpose of improving IFC's/MIGA's systemic performance on environmental and social sustainability and reducing the risk of harm.

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

Appraisal	Investigation	Monitoring
Preliminary review to determine whether a complaint or internal request merits a compliance investigation.	Systematic and objective determination of whether IFC/MIGA complied with its environmental and social policies and whether there is harm related to any non-compliance.	Verification of effective implementation of management actions developed in response to the findings and recommendations from a compliance investigation.

Context and Investment

Between 1997 and 2008, IFC financed 14 investments in the Wings Group,[1] a vertically integrated business group that manufactures and distributes consumer goods, The Group has its origins in the soap and detergent business, which relies on palm oil derivatives, and produces palm oil and other raw materials at its own plantations.[2] In 2011, Wings Group subsidiary PT SMU was one of the two "laundry giants" in Indonesia with over 40-percent market share.[3]

In 2012, the Wings Group launched a US$176 million project to expand the products and capacity of four companies,[4] including PT SMU. In April 2013, IFC received Board approval for an A loan of US$44 million and a syndicated B loan of US$44 million to the four entities.[5] IFC's rationale for the investment included supporting a longstanding client in reaching low-income consumers.

IFC's financing for the detergent company PT SMU consisted of an A loan of US$13.75 million and a B loan of US$13.75 million. On December 16, 2019, PT SMU prepaid all outstanding IFC loan balances, ending IFC's exposure to the subsidiary company.

Notably IFC's investment in PT SMU was prepared shortly after the release of the 2011 World Bank Group (WBG) Framework and IFC Strategy for Engagement in the Palm Oil Sector (WBG Framework and IFC Strategy).[6] This in turn followed a CAO 2009 audit of a downstream IFC investments in a major palm oil company in Indonesia,[7] which resulted in an 18-month global moratorium on new WBG palm oil sector investments from September 2009. Informed by a global stakeholder consultation, the WBG Framework and IFC Strategy committed IFC to support sustainable palm oil production in its lending activities.[8]

The Complaint

In November 2018, CAO received a complaint from the Indonesia NGO AMAN Kaltim.[9] Submitted on behalf of Indigenous community members in Long Beluah and Long Lian, North Kalimantan, the complaint cited environmental and social (E&S) impacts from oil palm plantations owned by PT Gawi Makmur Kalimantan (PT Gawi), a Wings Group subsidiary. Specific allegations included pollution of drinking water sources and associated health impacts, as well as the clearance of Indigenous Peoples' forest and seizure of their land without consultation or compensation, failure to establish agreed smallholdings, and failure to provide agreed development benefit.

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[1] IFC Disclosure website: https://disclosures.ifc.org/ Relevant IFC project numbers are: 7508, 8414, 10233, 11696, 23922, 24904, 25103, 25841, 26210, 27157, 17159, 27160, 27128, and 27129.

[2] Sayap Mas Utama PT in Home Care (Indonesia), May 15, 2015. Euromonitor Local Company Profiles, Euromonitor International. Also, Wings Group website: https://wingscorp.com/

[3] Laundry Care in Indonesia, September 17, 2012. Euromonitor Sector Capsules, Euromonitor International.

[4] Aside from PT SMU, IFC's investment in the other three Wings subsidiaries were: PT Tirta Alam Segar and PT Murni Alam Segar to expand their beverage product lines, and PT Harum Alam Segar to commission a greenfield coffee mix production. IFC, Summary of Investment Information (SII) for IFC project no. 32208, 2012. Available at: https://bit.ly/Wings01-SII.

[5] IFC, SII, 2012.

[6] World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector, 2011. Available at: https://bit.ly/WBG-IFCStrategyPalmOil

[7] CAO Audit of IFC's Investments in: Wilmar Trading (IFC No. 20348), Delta-Wilmar CIS (IFC No. 24644), Wilmar WCap (IFC No. 25532), and Delta-Wilmar CIS Expansion (IFC No. 26271), June 19, 2009. Available at: https://officecao.org/Wilmar01Audit

[8] WBG Framework and IFC Strategy, p. 31.

[9] See Annex 1 for a copy of the complaint.

PT Gawi received IFC financing in 2001–2007 but was not financed by IFC at the time CAO received the complaint. However, CAO accepted the complaint on the basis that IFC's then client, PT SMU, sourced refined palm oil derivatives (oleochemicals) from refineries that in turn sourced some of their palm oil from PT Gawi mills and plantations.

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:

a. *The objectives and scope of the investigation;*
b. *Any limitations on the scope of the investigation that may be appropriate, considering, among others, issues closed at the appraisal stage, the presence of concurrent judicial proceedings, or an IFC/MIGA Exit;*
c. *The approach and method of investigation, and specific consultant qualifications; and*
d. *A schedule for the investigation tasks, timeframe, and reporting requirements. This schedule will include deadlines for the submission of information by IFC/MIGA to inform the compliance investigation process.*[10]

Objective and Scope of the Compliance Investigation

As established in CAO's Appraisal Report, CAO will conduct a compliance investigation of IFC's investment in PT SMU of the Wings Group as it relates to the complaint. The investigation will determine whether IFC complied with its E&S Policies relevant to the investment and whether there is harm related to any IFC non-compliance. In determining whether IFC has complied with its E&S Policies, CAO will include, where appropriate, an assessment of whether IFC deviated in a material way from relevant directives and procedures.

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

1. Whether IFC has complied with its E&S Policies, including:
    a. Whether IFC conducted pre-investment E&S due diligence and supervision of its investment in PT SMU as required by the Sustainability Policy, and the adequacy of such due diligence and supervision;
    b. Adequacy of IFC's review and supervision of PT SMU's compliance with IFC's Performance Standards; and
2. Whether there is harm or potential harm related to any IFC non-compliance.[11]

The investigation will consider whether IFC properly applied the following Sustainability Framework requirements to the project:

- Whether IFC properly applied its Sustainability Policy requirement for pre-investment E&S due diligence, including a review of reputational and third-party risks, a supply chain assessment, and assessment of the client's control and leverage over its supply chain (Sustainability Policy, paras. 21 and 23; also ESRP 2009, para. 2.2.4).

[10] CAO Policy, para. 118.
[11] Ibid., paras. 112–114.

- Whether IFC assured that Board approval of the project was informed by an assessment of E&S risks and impacts in PT SMU's supply chain, including relevant ESAP items or E&S conditions of disbursement in accordance with para. 21 of the Sustainability Policy.
- Whether IFC verified the client's review of third-party risks with a view to creating outcomes consistent with Performance Standards PS3, PS4, PS5, PS6, and PS7 in accordance with para. 23 of the Sustainability Policy.
- Whether IFC verified the proper application of PS1, para. 10, to the project in relation to E&S risks and impacts from primary supply chains, including requiring the client to conduct supply chain mapping and risk assessment.
- Whether IFC properly applied Sustainability Policy requirements to the project during supervision in terms of reviewing project-related information that became known and, on the basis of that information, provide advice to the client on managing the E&S issues, per IFC ESRP (2013) 6.2.1.
- Whether IFC properly applied Policy requirements for project supervision during the life of the PT SMU investment, including prior to prepayment by its client, to ensure that its investment is implemented in accordance with the Performance Standards requirements. The Performance Standards require application of a mitigation hierarchy, requiring its client to assess and mitigate/compensate for any residual impacts, per Sustainability Policy, paras. 6–7.

In relation to any IFC non-compliance with these E&S requirements, the investigation will consider whether there is related harm or potential harm to the complainants.

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.[12]

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/MIGA to consider in the development of a Management Action Plan (MAP) relating to the remediation of Project- or Sub-Project-level non-compliance and related harm, and/or steps needed to prevent future non-compliance, as relevant in the circumstances. In case of a project where the IFC/MIGA Exit has occurred, recommendations will take into account the implications of such an IFC/MIGA exit.*[13]

[12] Ibid., paras. 115 and 117.
[13] Ibid., para. 120.

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.[14]

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 agricultural supply chain issues, preferably with familiarity with the soap/detergent or similar industry;
- Significant expertise in conducting supply chain assessments in relation to E&S issues;
- Significant experience in and knowledge of the palm oil sector, preferably in Indonesia;
- Knowledge of IFC's E&S policies, standards, and procedures, particularly the 2012 Sustainability Policy and the 2012 Performance Standards;
- Experience and knowledge relevant to conducting compliance investigations;
- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts; and
- Fluency in English, familiarity with Bahasa desirable.

Field Visit and Potential Limitations of the Investigation

A field visit to the complainants' communities and relevant Wings Group facilities is anticipated during the compliance investigation, including Wings Group plantations if possible. Given that IFC no longer has an ongoing financial relationship with the Wings Group, access to relevant facilities may be limited. For such a visit, the CAO case team, external experts, and an interpreter/translator would be expected to participate.

Compliance Investigation Schedule, Timeframe, and Reporting Requirements

According to the CAO Policy,[15] a draft compliance investigation report must be circulated within one year of the disclosure of an appraisal report. By April 2024, 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.[16] 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

[14] Ibid., paras. 116–117.
[15] Ibid., para. 121.
[16] Ibid., para. 122.

factual review and comment and as a source of information to inform future consultations on any IFC Management Action Plan (MAP).[17]

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 management and circulated to the Board, CAO will notify the public on its website of the investigation's completion.[18]

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.[19]

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.[20] Upon the Board's approval of the MAP, the compliance investigation report, management report, and MAP will be published on CAO's website.[21]

[17] Ibid., para. 124–125.
[18] Ibid., paras. 123, 127–129.
[19] Ibid., paras. 130–132, 134.
[20] Ibid., para. 135.
[21] Ibid., para. 138.