



The Independent Accountability Mechanism for IFC & MIGA

CAO ASSESSMENT REPORT

On Concerns in Relation to IFC Projects and Subprojects in Cambodia regarding 7 Financial Institutions and 3 Funds

**(IFC Project Numbers: #21856, #27827, #30607, #31467, #32642, #34386, #34748, #35963,
#37594, #38609, #39167, #41294, #42480, #44211, #44231, #44742, #44882, #45535)**

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Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About CAO

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

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

About CAO Assessments

Any person who believes they may be harmed by an IFC or MIGA project can lodge a complaint to CAO. We apply three simple eligibility criteria – shown below – to accept a complaint. For eligible complaints, we then conduct assessment of the concerns with the submitter, project sponsor, and other relevant stakeholders.

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

Purpose

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

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

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ANNEX A. CAO COMPLAINT-HANDLING PROCESS

ACRONYMS

CAO	Office of the Compliance Advisor Ombudsman
EC	Equitable Cambodia
ESMS	Environmental and Social Management System
FI	Financial Institution
IFC	International Finance Corporation
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
MEF	Microfinance Enhancement Facility
MIFA Fund	Microfinance Initiative for Asia Debt Fund
MIGA	Multilateral Investment Guarantee Agency
MSME	Micro, small, and medium enterprises
NGO	Non-governmental organization
SME	Small and medium enterprises

SUMMARY

In February 2022, CAO received a complaint filed by two NGOs – the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) and Equitable Cambodia (EC) – on behalf of a group of individuals (“The Submitters”¹) residing in Cambodia. The complaint relates to the lending and collection practices of financial institutions (FIs)² in Cambodia within the context of IFC projects with three clients (Aceda Bank, Amret, and Hattha Bank)³ and six sub-clients (Aceda Bank, Amret, Hattha Bank, LOLC (Cambodia), Prasac Microfinance Institution, and Sathapana Bank),³ through general investments by four clients (Microfinance Enhancement Facility (MEF), Microfinance Initiative for Asia Debt Fund (MIFA Fund), North Haven Thai Private Equity, and the holding company Advans S.A.).

During assessment, the Submitters requested that CAO keep their identities and the total and sub-total number of people who submitted the complaint and who had received loans from each financial institution confidential out of fear of reprisals. Nine of the submitters expressed their wish to engage in dispute resolution with the IFC clients/sub-clients whom they had received their loans from, in order to seek mutually acceptable solutions to their concerns. These Submitters indicated that they do not wish to disclose their identities until a later stage in the dispute resolution process. The other submitters indicated their preference for a compliance review.

None of the clients and sub-clients agreed to engage in dispute resolution. As a result, the complaint cannot be addressed in the context of the dispute resolution process. Instead, and in accordance with the CAO Policy, the case will proceed to a compliance appraisal to determine whether the complaint merits an investigation.⁴

BACKGROUND

2.1 The Projects

The complaint relates to the lending and collection practices of six financial institutions operating in Cambodia, Aceda Bank, Amret, Hattha Bank, LOLC (Cambodia), Prasac Microfinance Institution, and Sathapana Bank, the first three of which are financed directly by IFC. IFC has indirect exposures to all six financial institutions through IFC investments in three funds, MEF, MIFA Fund, and North Haven Thai Private Equity, as well as a holding company, Advans S.A. The financial institutions are linked to 18 active IFC projects⁵ that support lending programs for micro, small, and medium enterprises (MSME).

Aceda Bank is linked with seven direct IFC active investments (projects #30607, #32642, #34386, #35963, #37594, #42480, #44882)⁶, which are a combination of straight senior loans and quasi-equity loans with the intention to expand Aceda Bank’s MSME loan portfolio. IFC has, furthermore, invested US\$15 million in equity in North Haven Thai Private Equity (Project

¹ Complainants per CAO policy (Glossary).

² Aceda Bank, Hattha Bank and Sathapana Bank are registered as banks in Cambodia while holding large microloan portfolios.

³ Aceda Bank, Amret, and Hatha Bank appear as clients in some IFC projects and as sub-clients in other projects.

⁴ See paragraphs 92 and 93 of the CAO Policy [IFC/MIGA Independent Accountability Mechanism \(CAO\) Policy](#) (“CAO Policy”). Paragraph 59 of the new CAO Policy also states that “If both Parties agree to undertake dispute resolution, CAO will facilitate this process. If there is no agreement, the complaint will proceed to CAO’s Compliance function.”

⁵ Active as of April 2022 (start of the Assessment process).

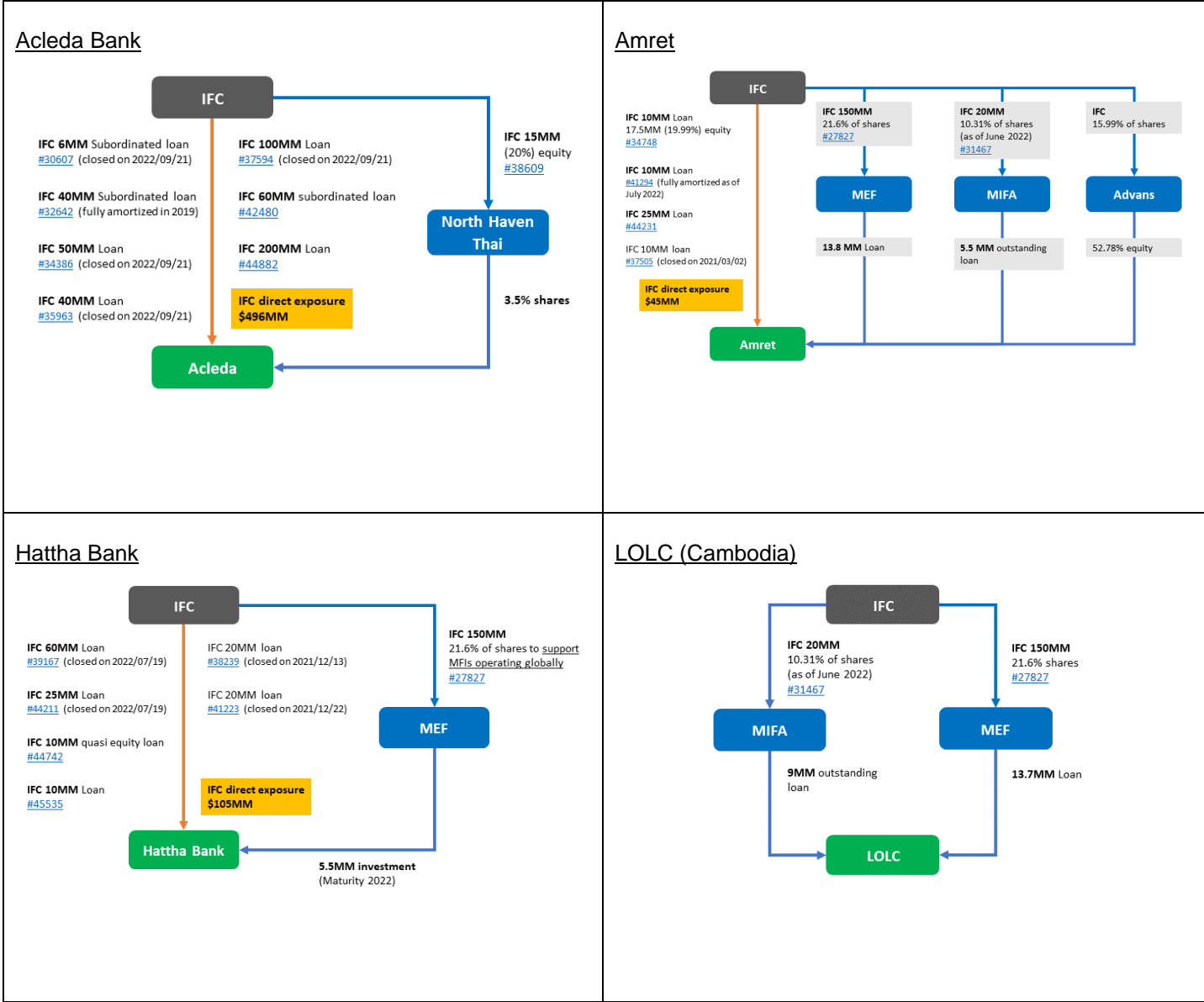
⁶ Active as of April 2022 (start of the Assessment process). #30607 closed on 2022/9/21, #32642 fully amortized in 2019, #34386 closed on 2022/9/21, #35963 closed on 2022/9/21, #37594 closed on 2022/9/21. #42480 and #44882 remain active as of October 2022.

#38609), a private equity fund, which acquired a 3.5% equity stake in Acleda in April 2022 through a secondary share purchase.

Amret is linked with three direct IFC active investments (projects #34748, #41294, 44231)⁷. IFC holds 19.9% percent of Amret’s shares through project #34748. IFC also has a direct equity stake in Advans S.A., which owns 58% of Amret's shares. IFC owns 16% of total shares in Advans S.A.

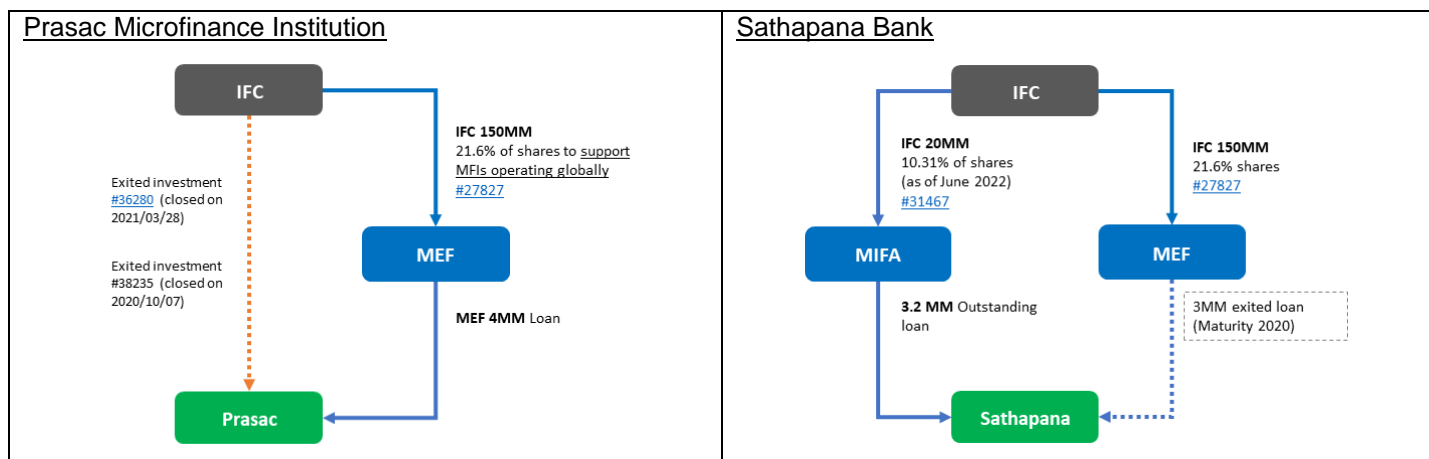
Hattha Bank is linked with four IFC active investments (projects #39167, #44211, #44742, #45535)⁸, all of which are loans from IFC to the Hattha Bank in order to expand its MSME finance. The total amount of IFC’s own account exposure to Hattha Bank is US\$20 million, and the total mobilized amount is US\$90 million.

Figure 1: IFC links to projects and financial institutions (as of October 2022)



⁷ #41294 fully amortized as of July 2022. #34748 and #44231 remain active as of October 2022.

⁸ Active as of April 2022 (Start of the Assessment phase). #39167 closed on 2022/07/19, #44211 closed on 2022/07/19. #44742 and #45535 remain active as of October 2022.



2.2 The Complaint

The complaint was filed in February 2022 by two NGOs – the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) and Equitable Cambodia (EC) – on behalf of a group of individuals living in Cambodia. It raised concerns regarding the lending and collection practices of microfinance institutions and banks in Cambodia. The Submitters requested that CAO keep their identities confidential out of fear of reprisals, including the total number or the sub-total number of individuals submitting the complaint who received loans from each financial institution.

The Submitters have acquired loans from one or more of the financial institutions concerned. They allege that they have been harmed by predatory and deceptive lending practices, such as lack of sufficient information that would allow borrowers to assess the consequences of entering into loan agreements. Furthermore, they allege that there was a lack of information in indigenous languages for borrowers from indigenous communities, who do not speak or read Khmer, and coercive collection actions pressuring them into selling their assets to repay loans (explained below).

The Submitters allege that it is a common practice in Cambodia for loan officers to seek expanding their business by offering to micro, small, and medium enterprises outsized loans in relation to their ability to repay, sometimes repeatedly, and for increased amounts, with insufficient assessment of borrowers' ability to repay. They also say that, when borrowers miss a payment by even a few days, loan officers employ extrajudicial coercive collection tactics, such as harassing borrowers at home and threatening to bring them before local authorities, pressuring borrowers into selling their land to repay loans, rather than pursuing collection through the legal process.

The Submitters allege that, because of the above practices, they have suffered the following negative impacts in violation of the IFC's Performance Standards:

- **Loss of land:** The Submitters allege that loan officers routinely requested them to put up their land as collateral for their loans to be approved, including land belonging to indigenous communities. They consider that the financial institutions' practice of granting outsized loans increased the chance of default, and abusive collection practices led to forced land sales. They share that they have been coerced by loan officers to sell their land for the repayment of loans, outside legal procedures to collect on collateral, and without sufficient prior information.
- **Loss of livelihood:** The Submitters say that selling their lands, motorbikes, or tools of craft to repay debts and losing their sources of income resulted in loss of livelihood.

- Food insecurity and threats to health: According to the complaint, all Submitters have resorted to eating less and poorer-quality food to meet loan payments.
- Child labor: Half of the Submitters mention that, to repay loans, they had to remove their children from school and send them to work. Some of these children had to migrate to find work.
- Adverse impacts on indigenous peoples: The Submitters allege that the acceptance of indigenous land as collateral and the coerced sale of such land, sometimes to persons outside of the indigenous community, violates indigenous communities' rights, cultures, traditions, and livelihoods.

The Submitters allege that there were several failures in IFC's pre-project due diligence, which resulted in improper risk classification and inadequate supervision of the projects that have resulted in the alleged negative social impacts. The Submitters argue that information regarding widespread social harms and inadequate consumer protections in Cambodia's microfinance sector were publicly available and known to IFC, which nonetheless proceeded to approve additional financing in the sector and classified those projects as low-risk. The Submitters further allege that there are protection gaps in IFC's Environmental and Social Framework and in the clients' ESMS when applied in microfinance projects.

In April 2022, CAO found the complaint eligible and initiated an assessment. CAO assessment does not entail a judgment on the merits of the issues raised in the complaint nor imply any wrongdoing by IFC and its clients or sub-clients.

The issues raised during assessment by the Submitters and IFC's clients and sub-clients ("the parties") are described in further detail below.

ASSESSMENT SUMMARY

3.1 Methodology

CAO's assessment aims at gaining better understanding of the issues and concerns raised in the complaint through discussion with the Submitters, IFC clients and/or sub-clients, and other relevant stakeholders. CAO explains the options available to the Parties and helps them determine whether they wish to initiate a CAO-facilitated dispute resolution or compliance process to address the complaint.

CAO's assessment of the complaint included:

- A desk review of project documentation;
- Virtual meetings with the submitters and the NGOs supporting them;
- Virtual meetings with the representatives of the IFC client and sub-clients;
- Virtual meetings with IFC's project teams.

Because of fear of reprisals from the financial institutions expressed by the Submitters, and the need to keep their identities confidential, the CAO assessment team did not visit Cambodia, to not attract attention to the Submitters and expose them to risk of harm. The team was assisted by CAO consultants, who were already on the ground, and conducted face-to-face meetings with the Submitters when possible.

In August 2022, CAO extended the assessment period for 30 business days as per CAO Policy, given that nine Submitters and IFC clients/sub-clients expressed interest in a CAO-facilitated dispute resolution process and there was potential for agreeing to this process. CAO notified the parties, IFC/MIGA and the Board of this extension, and the relevant decision was published on its website.

3.2 Summary of Views

This section includes an overview of issues raised by the Submitters and a summary of views expressed by the Parties in assessment.

Submitters' perspective

The Submitters confirmed in assessment that they had received loans from one or more of the aforementioned financial institutions. They alleged that they have been harmed by predatory and deceptive lending practices and coercive collection actions, purportedly committed by these institutions as described in the complaint.

The Submitters expressed a “serious and legitimate fear of reprisal” from the financial institutions. Therefore, they requested that their names, locations, total number of submitters, details of their microfinance loans including sub-total number of submitters who received loans from each financial institution, and any other information that could lead to their identification are kept confidential.

In calls with the CAO assessment team, some of the Submitters expressed that they wanted the complaint to be sent to appraisal by the CAO Compliance function, to address the issues raised, which, according to them, are systemic. Others chose to engage in a dispute resolution process with the IFC clients/sub-clients to seek mutually acceptable solutions to their concerns, under the condition of not disclosing their identities until they chose to, out of fear of retaliation.

CAO indicated that while it is possible for the CAO mediator to facilitate remote dialogue between parties, at some point they may need to engage in direct dialogue. They may, for example, need to share their identities with the IFC clients/sub-clients, in order to receive proposals that are adapted to the individual situation of each Submitter.

Clients/Sub-clients' perspective

During the assessment phase, CAO invited all six financial institutions to discuss the complaint. Five financial institutions, three funds and Advans S.A. accepted these invitations and engaged in talks with the CAO. A summary of their observations follows.

IFC clients

Acleda Bank stated that its policy is strictly aligned with the regulations of the National Bank of Cambodia (NBC), as are all Cambodian financial institutions; these regulations aim to guarantee that financial institutions provide professional and ethical financial services to their customers. Acleda Bank expressed its openness to handle any complaints directly through its own grievance mechanism and did not wish to join a CAO-facilitated dispute resolution process.

Amret stressed that its microfinance business operations have been accredited by the Smart Campaign's Client Protection Certification Program, which entails a streamlined desk review of institutional policies and procedures followed by allegedly comprehensive on-site due diligence. Amret informs it has not received any complaints through its domestic grievance mechanisms in relation to the issues raised in the complaint. Amret rejected all allegations made against the franchise as unfounded in their entirety. Amret initially expressed its willingness to engage in a CAO-facilitated dispute resolution process at the end of assessment, but because some of the submitters who are its customers wanted to engage in dispute resolution while others did not, Amret decided not to participate in this process.

Hattha Bank stated that all loans to the indigenous community are micro-sized ones and classified as “unsecured”. It also claimed that collateral was not required for their approval. Hattha Bank stresses that the indigenous community's land is registered as such under a collective land title, and local legislation is supposed to protect it against partial sales. Hattha Bank's Environmental and Social Management System applies specific E&S standards, which

clients or businesses financed by Hattha Bank are required to comply with. It also represents that it complies with IFC Exclusion List and Restricted Activities, Cambodia E&S laws and regulations, and IFC Performance Standards, if applicable. Hattha Bank rejected the issues alleged in the complaint and did not wish to join a CAO-facilitated dispute resolution process.

IFC sub-clients

LOLC (Cambodia) stated that it is committed to ensuring that an appropriate Environmental and Social Management System, consistent with the level of environmental and social risk, is in place. It considers having fulfilled its obligations resulting from the agreements with its lenders. It argues that it does not tolerate unethical lending practices and has strict and regular internal controls to monitor adherence to its Code of Conduct and Customer Protection Principles. LOLC initially expressed its willingness to engage in a CAO-facilitated dispute resolution process, but because some of the submitters who are its customers wanted to engage in dispute resolution while others did not, LOLC later decided not to participate in this process

Prasac Microfinance Institution explained that its Environmental & Social Policy is in place to protect its customers and to avoid child labor in connection with loan repayment. Prasac argued that indigenous communal land is registered and recognized by the Cambodian government and is legally prohibited from being used as loan collateral. Prasac alleges that its customers are properly taken care of and that loan agreements with them are legal and in alignment with the relevant policies and guidelines. Prasac initially expressed willingness to engage in dispute resolution with Submitters who are its customers and received additional information on the process. However, it later did not take any action to confirm this intention.

CAO invited Sathapana Bank to direct conversations, but the invitation was not accepted. Sathapana Banks views were conveyed to CAO through MIFA Fund, which has a direct investment in it. Sathapana Bank shared its preference to handle the complaint through the grievance mechanisms of the Association of Banks of Cambodia or of the National Bank of Cambodia. The justification provided was that it wanted to ensure its actions would be in line with the processes set up by its regulator and the association to which it belongs.

ASSESSMENT CONCLUSION AND NEXT STEPS

In the assessment process, nine of the Submitters shared their wish to engage in dispute resolution with financial institutions to seek mutually acceptable solutions to their concerns. These individuals also expressed their wish that their identities are not disclosed until they felt it was appropriate to do so. The other Submitters indicated their preference for a compliance review.

An IFC client and a sub-client initially expressed preference for dispute resolution, but they changed their minds when they were informed that some of the Submitters who are their customers preferred a compliance review. Since in the end none of the IFC clients and sub-clients agreed to engage in dispute resolution, the complaint cannot be addressed in the context of the dispute resolution process. Instead, and in accordance with the CAO Policy the case will proceed to a compliance appraisal⁹ that will determine whether the complaint merits

⁹ Paragraph 59 of the new CAO Policy (IFC/MIGA Independent Accountability Mechanism ([CAO policy](#))) also states that “If both Parties agree to undertake dispute resolution, CAO will facilitate this process. If there is no agreement, the complaint will proceed to CAO’s Compliance function.”

a compliance investigation or whether CAO closes the case.¹⁰ Annex A provides additional information on the steps of the compliance process.

¹⁰ The CAO policy establishes the following principal criteria, among other considerations, for establishing whether to proceed with a compliance investigation: a) whether there are preliminary indications of Harm or potential Harm; b) whether there are preliminary indications that IFC/MIGA may not have complied with its E&S Policies; and c) whether the alleged Harm is plausibly linked to the potential non-compliance. See paragraphs 92 and 93 of the CAO Policy ([CAO policy](#)).

ANNEX A. CAO COMPLAINT-HANDLING PROCESS

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

As per the IFC/MIGA Independent Accountability Mechanism (CAO) Policy,² the following steps are typically followed in response to a complaint that is received:

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

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

Step 3: **Assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 90 business days, with the possibility of extension for a maximum of 30 additional business days if after the 90-business day period (1) the Parties confirm that resolution of the complaint is likely; or (2) either Party expresses interest in dispute resolution, and there is potential that the other Party will agree.

Step 4: **Facilitating settlement**: If the Parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the Parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the Parties affected.³

OR

Compliance Appraisal/Investigation: If the Parties opt for an investigative process, the complaint is transferred to CAO's Compliance function. The complaint is also transferred to the Compliance function when a dispute resolution process results in partial or no agreement. At least one Submitter must provide explicit consent for the transfer, unless CAO is aware of concerns about threats and reprisals. CAO's Compliance function reviews IFC/MIGA's compliance with environmental and social policies, assesses related harm, and recommends remedial actions where appropriate following a three-step process. First, a compliance appraisal determines

¹ Complainants per CAO policy (Glossary).

² For more details on the role and work of CAO, please refer to the IFC/MIGA Independent Accountability Mechanism (CAO) Policy: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/889191625065397617/ifc-miga-independent-accountability-mechanism-cao-policy>

³ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public that CAO Dispute Resolution has concluded the dispute resolution process and transferred it to CAO Compliance for appraisal.

whether further investigation is warranted. The appraisal can take up to 45 business days, with the possibility of extending by 20 business days in exceptional circumstances. Second, if an investigation is warranted, the appraisal is followed by an in-depth compliance investigation of IFC/MIGA's performance. An investigation report will be made public, along with IFC/MIGA's response and an action plan to remediate findings of noncompliance and related harm. Third, in cases where noncompliance and related harm are found, CAO will monitor the effective implementation of the action plan.

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

Step 6: **Conclusion/Case Closure**

