



TERMS OF REFERENCE

Terms of reference for Compliance Investigation of IFC

C-I-R9-Y13-F190

January 24, 2014

IFC Investment in Ficohsa, Honduras
[IFC Projects #26394, 27341 and 29257]

Case of

IFC's investments in Banco Financiera Comercial Hondureña S.A.

About CAO

CAO (Office of the Compliance Advisor Ombudsman) is an independent office that reports directly to the President of the World Bank Group. CAO reviews complaints from communities affected by development projects undertaken by the two private sector lending arms of the World Bank Group: the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA).

If CAO concludes that the parties are not willing or able to reach a facilitated solution, the case is transferred to the compliance arm of CAO, to appraise whether the concerns raised in the complaint merit a Compliance Investigation of IFC/MIGA. Compliance appraisals of one or more IFC/MIGA projects may also be triggered by the CAO Vice President, President of the World Bank Group or IFC/MIGA senior management.

CAO's compliance mandate is to undertake a Compliance Investigation of IFC, and how IFC assured itself of the environmental and social performance of its investments. The focus of this process is thus on IFC's appraisal and supervision of an investment, and whether or not IFC complied with its own policy provisions. CAO does not undertake a Compliance Investigation of IFC's client.

CAO discloses the findings of its Compliance Investigation in an Investigation Report to inform the President and Boards of the World Bank Group, senior management of IFC/MIGA, and the public about its decision.

For more information about CAO, please see www.cao-ombudsman.org

Background

IFC's made its first investment with Ficohsa in May, 2008 (project # 26394). The initial loan of US\$20 million supported Ficohsa's small and medium sized enterprise (SME) and middle to low income mortgage portfolio. This investment was combined with an IFC Advisory Service project to support Ficohsa's credit risk management, market segmentation and management information systems, and improve the housing and SME business lines in areas such as product management, underwriting, monitoring and collections. In July 2008, IFC approved Ficohsa's inclusion in the Global Trade Finance Program (GTFP) with an initial credit line of US\$15 million which was subsequently increases to US\$35 million (project # 27341).

IFC entered discussion with Ficohsa about a potential equity and subordinated debt investment in late 2009. In May 2011, IFC Board approved a 10 percent equity (US\$32.1m) and sub-ordinated debt (US\$38m) investment (project # 29257). This investment was financed by the IFC's Asset Management Company (AMC) through its Global Capitalization Fund.

Corporación Dinant (Dinant) is an integrated palm oil and food company in Honduras which received a loan from IFC in 2009. CAO has an ongoing compliance process in relation to IFC's investment in Dinant.¹

In the course of CAO's compliance process in relation to Dinant, CAO became aware that Dinant is one of Ficohsa's largest borrowers and as a result that IFC had a significant exposure to Dinant through its equity stake in Ficohsa. As a result the CAO Vice President initiated a compliance appraisal of IFC's investment in Ficohsa.

Scope of the Compliance Investigation

The focus of Compliance Investigations is on IFC, and how IFC assured itself of project environmental and social performance at appraisal and during supervision.

The approach to the Compliance Investigation is described in the CAO Operational Guidelines (March 2013), and states that the working definition of Compliance Investigations adopted by CAO Compliance is as follows:

An investigation is a systematic, documented verification process of objectively obtaining and evaluating evidence to determine whether environmental and social activities, conditions, management systems, or related information are in conformance with the compliance investigation criteria.

The Compliance Investigation will consider whether IFC's equity and subordinated debt investment in Ficohsa was appraised, structured and supervised in accordance with applicable IFC policies, procedures and standards. It will also consider whether IFC's Policy and Performance Standards

¹ See CAO website: http://www.cao-ombudsman.org/cases/case_detail.aspx?id=188



on Environmental and Social Sustainability and Policy on Disclosure of Information as applied to this project provide an adequate level of protection.

More specifically the Investigation will consider whether:

1. IFC's E&S review was sufficient to identify activities where the financial intermediary could be exposed to environmental and social risk or determine whether Ficohsa was engaged in projects with potentially significant E&S risks;
2. IFC established an environmental and social management plan that was commensurate to the level of E&S risk that was present in Ficohsa's portfolio;
3. IFC obtained adequate evidence of compliance with the agreed conditions of disbursement; and
4. IFC adequately assured itself that its client E&S obligations including reporting obligations were being fulfilled

The scope of the Compliance Investigation includes developing an understanding of the immediate and underlying causes for any non-compliance identified by the CAO.

Compliance Investigation Process and Timeline

CAO aims to have a draft Compliance Investigation report ready for IFC's factual review and comment by April 2014. IFC will have a period of 20 working days for factual review and comment.

Upon receiving comments from IFC/MIGA on the consultation draft, CAO Compliance will finalize the report. The final report will be submitted to IFC/MIGA senior management for official response. A notification will be posted on CAO's website. IFC/MIGA has/have 20 working days to submit a written response to CAO. CAO will forward the Investigation Report and the IFC/MIGA response to the President. The President has no editorial input as to the content of the compliance Investigation Report, but may take the opportunity to discuss the investigation findings with CAO.

Once the President is satisfied with the response by IFC/MIGA senior management, the President will provide clearance for the Investigation Report and the response. The President retains discretion over clearance. After clearance, CAO will disclose the Investigation Report and the IFC/MIGA response to the Board. CAO will also alert relevant stakeholders of the disclosure of both documents on CAO's website, and in cases where the investigation was initiated by a complaint, share the documents with the complainant.

External Panelist

As per its established practice CAO will engage one or more external experts to work with it on this task. For this particular Compliance Investigation, CAO considers the following as necessary for the Compliance Investigation panel:



- Significant expertise in relation to the structure of IFC investments with Financial Intermediary clients
- Identification and management of E&S risks around Financial Intermediary clients.
- Knowledge of IFC's Performance Standards, as well as applicable Environmental and Social Review Procedures.
- Experience and knowledge of compliance investigations.
- Demonstrated ability to analyze policies and practices and develop proposals for reform in complex institutional contexts.