

**Public Consultation on Draft IFC/MIGA
Independent Accountability Mechanism (CAO) Policy**

**LATIN AMERICA & THE CARIBBEAN REGION
BOGOTA¹ CONSULTATION**

**Virtual Stakeholder Meeting April 26, 2021
Facilitators' Report**

I. SUMMARY

In August 2020, IFC and MIGA Boards of Directors (“Boards”) released the report of the *External Review of IFC’s/MIGA’s Environmental and Social Accountability, including the Compliance Advisor Ombudsman’s (CAO) Role and Effectiveness* (the **External Review**). In response to recommendations from the External Review, the Boards tasked a Joint CAO/IFC/MIGA Working Group (the “Working Group”) to develop a draft IFC/MIGA Independent Accountability Mechanism (CAO) Policy (“CAO Policy”).

The draft policy outlines the CAO’s purpose, mandate and functions; core principles; and governance and is available for public consultation between April 5 and May 19, 2021. The public consultation phase comprises nine virtual consultations sessions covering all regions of the world. The process also allows for written comments on the draft policy to be shared by email or using an online feedback form available on the dedicated website for the consultation process.

This report summarizes the outcomes of the session held for Latin American and Caribbean Spanish-speaking countries on April 26, 2021 at 9:00 Bogotá time. The session was designed to obtain feedback from community members, civil society, private sector, and representatives of international finance institutions (IFIs) including their respective independent accountability mechanisms (IAMs). Twenty-seven participants attended the meeting.

The session was conducted in Spanish by a team of professional facilitators, with support from note-takers and Spanish-English interpreters. Members of the CAO/IFC/MIGA Working Group responsible for drafting the policy presented background on the process to date, the key elements of the draft CAO Policy, including enhancements to CAO’s processes, and next steps in the process toward finalizing the policy for approval by the IFC and MIGA Boards in June 2021². Participants were asked to provide their input and questions on the topics they wished to focus on. This report covers the comments and questions from participants and summarizes answers from members of the Working Group. The agenda for the session is attached as Annex I.

II. STAKEHOLDER FEEDBACK AND QUESTIONS

¹ The city corresponds to the location where the session would have taken place if it had been held in person rather than virtually.

² The presentation can be found and downloaded [here](#). IFC/MIGA also presented on other actions they are developing to [strengthen environmental and social accountability](#) as well as on their work program on [enabling remedial solutions](#).

Using an anonymous Zoom poll, participants were asked to select the order in which they wished to discuss the different sections of the draft policy: 1) Purpose, Mandate, Functions and Core Principles (including Remedy); 2) Governance; 3) Eligibility of Complaints; 4) Assessment; 5) Dispute Resolution; 6) Compliance; 7) Advisory; 8) Threats and Reprisals; 9) Outreach; and 10) Access to Information and Disclosure.

The order of topics prioritized by the participants were:

- Purpose, Mandate, Functions and Core Principles (including Remedy) (67%);
- Eligibility of Complaints (67%);
- Access to Information and Disclosure (53%);
- Dispute Resolution (47%).

For each of the selected topics, a 15-minute space was opened to listen to stakeholder input and questions. Since participants had different levels of knowledge of, and exposure to CAO, for most part, the conversation followed a question and answer format. While the focus was on the selected topics, related issues were also raised in the subsequent questions and inputs from stakeholders.

Purpose, Mandate, Functions and Core Principles

CAO Accessibility. Stakeholders commented on the importance of CAO being accessible to anyone who can be impacted by an IFC/MIGA project and noted that accessibility is directly linked to an outreach challenge: how to let communities know that a project is supported by IFC/MIGA and that CAO is available to receive complaints. Specific recommendations were offered to strengthen CAO's connection with project-affected communities, such as mandating clients and contractors to place banners at the project site, detailing CAO's contact information (phone number, email, WhatsApp number, webpage), using spots in local radio stations, or having regional "ambassadors" who could visit communities on a yearly basis to let them know about CAO's existence and contact information. Stakeholders emphasized that accessibility has become even more challenging for communities in times of the COVID-19 pandemic and asked CAO to instrument the necessary changes to address it. The Working Group agreed on the importance of the issue and welcomed these suggestions.

Remedy. Stakeholders raised the issue of potential environmental harm, social conflict, and threats and reprisals that persist and even intensify after IFC/MIGA have exited the project. They asked about IFC/MIGA's responsibility in these situations and how remedy can be brought to those who may be affected by those negative impacts. The Working Group shared that the draft policy would allow, under certain circumstances, for CAO to accept complaints up to fifteen months after IFC/MIGA's exit from a project. It also includes a specific section on threats and reprisals based on CAO's current approach on this issue. At the same time, IFC and MIGA are developing their own remedy framework, which will also undergo its own consultation process. IFC and MIGA are also working internally on what responsible exit from projects should look like in environmental and social terms, considering international best practices.

Implementation. A question was also asked regarding how to ensure full implementation of the new Policy. The Working Group shared that even though the new Policy will bring some important changes in current CAO operations, it is built on twenty years of experience of effective compliance and dispute resolution process. Proper budget allocation, competent and committed staff members, and a skilled network of external consultants have been essential to CAO's effectiveness.

Eligibility of Complaints

Projects not yet approved by the Boards. A comment was shared regarding projects not being eligible prior to Board approval, as the stakeholder felt that pre-approval would be the appropriate time to introduce changes in a project that may cause environmental or social harm. Without the possibility of filing a complaint at an early stage, stakeholders wondered if communities would then be left without a channel to propose changes to a project. The Working Group explained that early resolution of complaints before project approval should be pursued with IFC/MIGA who have recently established an internal unit especially devoted to strengthening IFC/MIGA teams' capacity to respond to complaints or grievances.

Ongoing judicial processes. In response to a question, the Working Group confirmed that, consistent with current CAO practice, complaints regarding issues where there are ongoing judicial processes will continue to be eligible under the new policy. The CAO will consider relevant information about judicial processes on the issues of the complaint.

Dispute Resolution

IFC/MIGA exit. Stakeholders asked about what happens with the CAO process if IFC/MIGA exit the project. The Working Group informed them that once a complaint has been declared eligible, CAO's work can continue. If the complaint is being addressed by the Dispute Resolution function, the parties can decide to voluntarily continue with the process. If the complaint is being handled by the Compliance function, it may be complicated to ensure implementation of remedial actions, as IFC/MIGA's relationship with the client no longer exists.

Access to Information and Disclosure

High-risk sub-projects. A request was made to further spell out the draft policy with regard to access to detailed information on high-risk sub-projects, as it is sometimes difficult to establish the link between a sub-project and IFC/MIGA. The Working Group informed participants that the draft policy does not regulate IFC's/MIGA's transparency. IFC (and MIGA) has its own Access to Information Policy with provisions regarding what should be disseminated on projects of different categories and a commitment to strengthening information regarding sub-projects supported by financial intermediaries.

Environmental and social information. A recommendation was made that the current general rule in favor of disclosure of environmental and social information of a project should be maintained. Concern was expressed regarding CAO's limitations to access and disclose client information, which would be helpful for communities.

III. NEXT STEPS

The Working Group closed the meeting reflecting on the issues raised and thanking participants for their contributions. In terms of next steps, the Working Group will carefully consider written and verbal feedback received during the consultation period as they finalize the draft CAO policy for consideration and approval by the IFC and MIGA Boards in June 2021. In addition to a summary report from each regional and global consultation meeting, a consolidated consultation report that summarizes feedback received during the public consultation period and indicates how feedback was addressed in the final CAO policy will be released.

ANNEX I: AGENDA

Agenda for Public Consultation Meetings on Draft IFC/MIGA Independent Accountability Mechanism (CAO) Policy

Bogotá, April 26, 2021 – 9:00 AM

TIME	TOPIC
30 MINUTES	<ul style="list-style-type: none">• Welcome, background and purpose of the meeting• Overview of cycle to complete new Policy and key changes to CAO's Operations brought about by the new Draft Policy.• Update on IFC/MIGA efforts on non-policy actions and enabling remedial solutions.
10 MINUTES	Process Questions from Participants
75 MINUTES	Comments and Questions from Participants on Draft CAO Policy
5 MINUTES	Closing remarks and Next Steps