

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

**Middle East and North Africa
CONSULTATION**

**Virtual Stakeholder Meeting April 28, 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 Arab speaking countries on April 28, 2021 at 8:00 a.m. Cairo 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). Consultation sessions were organized to accommodate a maximum of twenty-five people to ensure an effective dialogue among stakeholders in a plenary discussion. In the event of increased interest and a high number of registrations for any given session, the session was adapted to include break-out rooms to facilitate discussion among a smaller number of stakeholders. Fifteen stakeholders attended the meeting.

The session was conducted in Arabic by a team of professional facilitators, with support from notetakers and Arabic-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 2021¹. Stakeholders were asked to provide their input and questions on the topics they wished to focus on. This report covers the comments and questions from stakeholders and summarizes answers from members of the Working Group. The agenda for the session is attached as Annex I.

¹ 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](#).

II. STAKEHOLDER FEEDBACK AND QUESTIONS

Using an anonymous Zoom poll, Stakeholders 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 topics prioritized by the Stakeholders were:

- Access to Information and Disclosure (71 percent).
- Governance (57 percent)
- Assessment (57 percent)
- Dispute Resolution (57 percent)
- Threats and Reprisals (57 percent)
- Compliance (43 percent)
- Outreach (29 percent)
- Purpose, Mandate and Functions, and core Principles (29 percent)
- Advisory (14 percent)

For each of the selected topics, a 15-minute space was opened to listen to stakeholder input and questions. Since Stakeholders 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.

Discussion of Prioritized Topic:

Access to Information and Disclosure (71 percent):

Stakeholders stated that it is difficult for the complainants to obtain information and data. They expressed concern over the lack of responsiveness from IFC to such requests. Consequently, the complainants are unable to access the results of the environmental impact study and any information related to the compliance of the company and its performance. They also attributed such difficulties to accessing information to the absence of technical skills and lack of familiarity of the complainants with international regulations. Stakeholders requested that the IFC make available EIA / ESIA in Arabic.

The Working Group indicated that project related information along with Environmental and Social Review Summary, when applicable, is disclosed on IFC website in accordance with its Access to Information Policy.

Governance (57 percent)

Stakeholders stated that past complaints related to an IFC funded project should serve as an example of unpopular policies that ought to be reviewed and avoided in future projects. They explained that the violations that occurred and the way they were dealt with led to negative results such as the complainant being unable to obtain their rights and that some complainant may have passed away before any action has taken place. They also reported that the complainants were not informed about the IFC exit from a project and raised concerns about how to ensure IFC accountability post exit. Accordingly, the stakeholders expressed their desire to discuss this particular complaint in detail.

The Working Group answered that IFC/MIGA are taking these concerns very seriously and are working on this issue in the context of the workstream on enabling remedial solutions, including defining responsible exit principles.

Assessment (57 percent):

Stakeholders asked whether the responses of the company to questions regarding the negative impact of its expansion plans for the factory be made available to the complainant.

The Working Group responded that the policy provides for the client response is published together with the assessment report.

Dispute Resolution (57 percent)

Stakeholders requested that they be consulted on the selection and approval of the mediator(s). They believe this will increase the parties' confidence in the process.

The Working Group acknowledged this comment and indicated that it would be considered in finalizing the policy for submission to the Board.

Threats and Reprisals (57 percent)

Stakeholders expressed their concerns on matters related to local politics and its impact on the complainants safety and the fear of reprisal by the State. They explained that when the process moves from conflict resolution to compliance there seems to be a requirement that the complainant approve the move and consequently has to disclose their identity. Stakeholders went on to explain that at this stage the complainant is exposed to great risks. They would like to inquire on the feasibility of combining all steps in one to mitigate the risk of exposure.

Stakeholders also suggested the possibility of protecting the identity of the complainant by expediting the investigation process, because it would reduce the risks of the complainant's exposure to pressures, threats, loss of livelihood and bringing attention to areas of weaknesses. Should this happen, they fear that the complainant might decide to withdraw from the process, revoke the complaint, or hide for security reasons. In their opinion, the real protection is in justice being acted upon swiftly.

Stakeholders also recommended that there be zero-tolerance policy for a party that poses a threat to the complainant. They added that the advantages of automatic transfer to compliance (when the dispute settlement process fails) provides the opportunity for the investigative process to continue without any reprisals for the weaker party.

The Working Group confirmed that there are institutional position statements regarding threats and reprisals and links to the respective statements was shared in the chat with the group.

IFC Link: https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES

MIGA Link: <https://www.miga.org/miga-position-statement-retaliation-against-civil-society-and-project-stakeholders>

Compliance (43 percent)

Stakeholders were interested in understanding the following issues as they related to the compliance process. For example:

- What happens if the complainant disagrees about their complaint going to compliance and made it clear that there were many other complaints/issues that have not been negotiated yet?

The Working Group noted that a CAO dispute resolution process is voluntary and requires participation of the project operator and the complainants.

- What mechanisms are in place to ensure that the company complies with the environmental and social impact issues that have been stated in the complaint?

In response, the Working Group noted that their regular supervision structure is designed to ensure compliance with the E&S requirements. The Working Group outlined the CAO compliance process leading to a management action plan and subsequent monitoring.

Stakeholders also indicated that they wanted to:

- Ensure that all issues are recognized by CAO (especially when violations by the company persist and there is hesitation by those affected to submit a complaint).
- Understand whether these violations will be referred to CAO and how they will be dealt with.
- Understand the rationale behind the automatic transfer of the cases to compliance.
- Highlight the negative impact of the delayed completion of the compliance process (timeframe) on the complainant.
- Express concerns over the types of external pressures that the complainants may be subject to which ultimately weakens the complainant's position and resulted in the process ending prematurely and unfairly.
- Bring attention to the impact of delays on the effectiveness of CAO complaint handling processes.

The Working Group acknowledged that impacts of delays in the CAO process and noted that the new policy includes clearer time frames for case handling.

Outreach (29 percent)

Stakeholders complained that reports are only accessible in English and not in the native language of the complainant, i.e., Arabic. They believe such actions affect the rights of the complainants and impedes their access to information. They recommended that all reports be translated into Arabic to allow direct access to data, encourage transparency, and promote dialogue.

The Working Group indicated commitment that all reports are translated into the language of the complainants.

Purpose, Mandate and Functions, and core Principles (29 percent)

Stakeholders inquired about the independence of CAO and inquired about the types of guarantees that currently exist to ensure its independence. They also would like to know about the period allocated for the Board review of the policies and whether they will have a chance to review the draft before it is approved.

The Working Group indicated that the process for consultation as planned will collect feedback and reflect any needed changes to the Policy that will be submitted to the Board for target approval date of June 30, 2021, and then the final policy will be posted with no further consultations. The Working Group reiterated the other channels to send inputs till May 19 on the draft policy and the links to the website and email were shared in the chat.

Additional Comments:

Stakeholders inquired about the period allocated for complainants to reach out to the IFC, and the role of CAO in overseeing the process. They believe that the response to this question will allow them to

assess the seriousness of institution in considering their grievances and issues. Stakeholders also requested that all complaints, regardless of them meeting eligibility criteria by CAO, be made public by CAO.

III. NEXT STEPS

The Working Group closed the meeting reflecting on the issues raised and thanking Stakeholders for their contributions. In terms of next steps, the Working Group will incorporate 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 disclosing a summary report from each regional and global consultation meeting, the Working Group will release a consolidated consultation report that summarizes feedback received during the public consultation period and indicates how feedback was addressed in the final CAO policy.

ANNEX I: AGENDA

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

Cairo, April 28, 2021 – 8:00 AM (EST time)

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.
15 MINUTES	<ul style="list-style-type: none">• General Comments
60 MINUTES	<ul style="list-style-type: none">• Comments and Questions from Stakeholders on Draft CAO Policy
10 MINUTES	<ul style="list-style-type: none">• Update on IFC/MIGA efforts on non-policy actions and enabling remedial solutions.
5 MINUTES	<ul style="list-style-type: none">• Closing remarks and Next Steps