

Report on the World Bank's Inspection Panel and the International Finance Corporation's Compliance Advisor Ombudsman: Issues and Recommendations

April 2019

Introduction

The Treasury Department presents this report as requested by the conference report, H. Rept. 116-9, for the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019, Public Law 116-6. This report provides information on the budget, staffing and caseloads of the Inspection Panel of the World Bank and the Compliance Advisor Ombudsman (CAO) of the International Finance Corporation (IFC), and discusses priorities and recommendations of the U.S. Executive Director for these mechanisms, in response to the following request from the committee of conference:

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION
The conference agreement provides \$1,097,010,000 for Contribution to the International Development Association. Not later than 60 days after enactment of the Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations detailing the annual budgets of the Inspection Panel and the Compliance Advisor Ombudsman for each of the past five fiscal years, the caseload of each such entity for each of those years, a description of the priorities of the United States Executive Director for such entities, and specific recommendations, including budget and personnel increases, to enhance the capacity of each such entity to effectively carry out its mission.

The report provides some context on independent accountability mechanisms generally, and then discusses each mechanism in turn.

Context

The U.S. has been a strong advocate of independent accountability mechanisms (IAMs) at the multilateral development banks (MDBs) since the early 1990s, when the World Bank first considered establishment of such a mechanism. IAMs serve three broad functions important to the Board in its oversight over the Bank. First, they help address grievances of people and communities who believe they have been, or are likely to be, adversely affected by an MDB-financed project. Second, they are an important risk management tool of the MDB, aiding in identifying and addressing problems that emerge in connection with the MDB's activities. Lastly, as a result of the first two functions, they foster inclusive development and enhance the development outcomes of MDB-financed projects. Strong IAMs at the MDBs distinguish the MDBs from many bilateral donors that do not put in place measures that hold them accountable or provide a voice for affected communities.

From the diversity of IAM experience, we have drawn a few lessons about factors that contribute to IAMs' effectiveness. Specifically:

- Independence from MDB management is essential to IAMs’ credibility with project-affected people and civil society organizations, and thus, to the IAMs’ effectiveness.
- Compliance review, dispute resolution, monitoring, and the distillation of learnings from experience (advisory services) are inter-related functions that, when combined in an integrated way, make the IAMs more effective.
- The above functions require an on-going institutional commitment to sufficient budget and staffing.
- In compliance reviews in particular, IAMs can play a useful role in monitoring and confirming implementation of a management action plan, or in identifying gaps in implementation. However, a compliance review does not necessarily lead to satisfaction of a complainant’s grievance.
- Project-affected people need to know that an IAM exists, in order to seek its services. Given valid fears about retaliation for making a complaint, IAMs and MDBs need to be proactive in preventing retaliation and acting promptly in cases where retaliation occurs.
- IAMs can contribute to knowledge development and knowledge management. However, this is currently largely limited to “advisory” services and there is potential for IAMs to do more in this area.

The Inspection Panel¹

Context. The Inspection Panel was established in 1993 by the World Bank Board of Executive Directors, with strong U.S. leadership so that the Board had an independent mechanism to assess whether projects funded by the World Bank were consistent with World Bank policies.²

Budget. As shown in Table 1, the Inspection Panel’s budget spent varies slightly from year to year, depending on the cases and specific activities undertaken in a given year. In the last five years, the budget spent has varied from a low of \$3.2 million in World Bank FY 2015 to a high of \$4.1 million in FY 2018.^{3,4} In FY 2018, the Panel’s expenses slightly exceeded the Panel’s budget and the net balance for FY 2019 is not yet available. The current budget supports a full-time Chairperson, two part-time members of the Panel, and nine full-time Secretariat staff. They are supplemented by additional consultants, as needed. The budget is included in the World Bank budget approved annually by the Board.

¹ www.inspectionpanel.org

² The Inspection Panel can review projects funded by the International Bank for Reconstruction and Development (IBRD) and the International Association for Development (IDA), the two principal arms of the World Bank that provide sovereign lending to governments.

³ All references in this report to fiscal year “FY” refer to the World Bank Group fiscal year, which runs from July 1 to June 30.

⁴ The increase in FY 2018 was due to a change in the way the World Bank Group allocates staff benefits in its budget documents. Starting in FY 2018, some benefits have been transferred to the budget of each unit.

Table 1: Inspection Panel Budget (FY 2014-FY 2019)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Salaries	1,426,332	1,218,568	1,221,536	1,276,853	1,404,454	n.a.
Benefits	711,970	608,932	608,207	663,823	1,068,904	
Communications & IT Services	104,998	127,024	120,374	113,701	121,705	
Office Occupancy	176,820	176,157	174,511	174,270	188,166	
Equipment and Building Services	217	-	2,054	103	552	
Temporaries	59,829	13,163	7,105	45,502	47,236	
Consultants	697,392	625,269	777,605	526,721	762,977	
Travel	294,794	330,960	93,709	272,784	368,972	
Representation and Hospitality	14,956	7,773	11,854	11,915	14,020	
Publications	57,153	55,903	71,994	62,546	62,603	
Contractual Services	34,535	69,741	49,909	111,366	47,681	
Other Expenses	3,858	5,320	25,107	12,636	3,645	
Budget spent	3,582,854	3,238,810	3,463,965	3,272,220	4,090,915	
Total Budget Received	3,625,879	3,667,198	3,760,000	3,704,000	4,000,000*	4,070,000*

* Reflects World Bank Group increase in allocation of benefits to each unit.

Source: Inspection Panel, March 2019.

Caseload. The Panel's caseload is driven by the number and types of requests it receives. When the Panel receives a request for inspection, it determines if it can register a complaint and if it is eligible for an investigation of the Bank's compliance with its policies, requesting additional information from Management when it registers a case. For eligible requests, the Panel assesses the request and the Management's response to the request, and makes a recommendation to the World Bank Board on whether to undertake an investigation of the Bank's compliance with its policies. If an investigation is recommended and the Board approves, the Panel proceeds. Many cases span more than one year.

As shown in Table 2, since FY 2014, the number of requests registered in a fiscal year has stayed around three or four. The Panel has received 133 requests since the start of FY 2014, of which 22 were registered. During this time, the Panel issued eight Investigation Reports (three in response to requests received in prior years and five for investigations in response to requests received during this period). It is currently working on two pending investigations reports anticipated this fiscal year or in early FY 2020. The number of projects considered by the Inspection Panel is a very small fraction of the projects that the World Bank Group considers each year.

Table 2: Inspection Panel Caseload (FY 2014-FY 2019)

	Not-admissible based on initial review ⁵	Not registered ⁶	Registered	Report and Recommendation	Investigation Report
FY 2014	9	5	3	2	1
FY 2015	6	5	4	2	3
FY 2016	16	3	4	3	3
FY 2017	18	6	3	5	0
FY 2018	18	3	4	7	1
FY 2019 (expected)	21	1	4	5	2*

* One report may be in early FY 2020.

Priorities and Recommendations.

Functions and governance. While the Inspection Panel is the oldest and most established of the IAMs, it lacks some of the functions of the more-recently established IAMs at other MDBs. Accordingly, starting in 2017, the U.S. has supported a review of the Inspection Panel’s toolkit, and some modest reforms were adopted in late 2018, including the establishment of a formal advisory function. With this function in place, we look for the Panel’s role as a source of knowledge development and knowledge management to grow.

In 2019, the United States is working with other Board members and World Bank Management to support a continuation of the Panel reform process. Our goal in this process is to provide the Inspection Panel all necessary tools to successfully address complaints, on par with IAMs at other MDBs. Specifically, there are three tools that the Inspection Panel does not possess that other IAMs do:

- **Robust monitoring of Management Action Plans.**⁷ The Board needs the capacity to monitor Management’s Action Plans independently. The Inspection Panel should do this on the Board’s behalf, and could be done on a risk-based basis (taking into account the nature and severity of the case).
- **Independent dispute resolution.** In some cases, the issue at hand is not necessarily a problem with non-compliance with Bank policy. Rather, it can be primarily a dispute about a project’s impacts on local people’s lives and livelihoods, and a dispute resolution process mediated by a neutral party would be the best means to address the problem expeditiously. The Inspection Panel, given its independence from Management, could serve as that neutral third party and earn the trust of the complainants, which is an essential component in successful dispute resolution.

⁵ Based on its initial review, the Panel determines that the request does not meet its basic “admissibility” requirements. The most common reasons are that the request is related to procurement, the project is closed or 95% disbursed, or the requester has not approached World Bank Management to resolve the problem.

⁶ Based on further review, the Panel determines that the request does not meet the basic “admissibility” requirements and issues a notice of non-registration.

⁷ When the Panel completes an investigation, Management is required to prepare an “Action Plan” detailing how it will address the findings of an investigation.

- **Inspection Panel eligibility extended.** Currently, a project loses eligibility for Inspection Panel review after 95 percent of funds are disbursed. This constraint is the narrowest of all the MDBs and precludes eligibility for some projects for which harms materialize late in the implementation phase and there is still time to correct any problems. Hence, we support extending the eligibility for a period of time beyond the project closing date, as at other MDBs.

Budget and staffing: While the Panel has accomplished important work with its current levels of funding and staff, a number of factors will likely increase the demands on the Inspection Panel and require additional funding and staff. These include potential new functions from the Panel modernization process discussed above, increased outreach, an increased number of more complex projects, and the Bank's plans to increase engagement in fragile and conflict- and violence-affected states where project implementation is often more difficult.

While it is difficult to predict future needs, we recommend that the Board carefully consider whether the Panel's budget is keeping up with the workload, the expectations, and the complexity of World Bank projects.

On balance, for the FY 2020 budget, we recommend an increase in the Panel's budget with scope for commensurate additional staff, for two reasons. First, this will help ensure that the Panel is not being constrained by its current budget and staffing. This is clearly a risk, as shown by FY 2018's data where the Panel's expenses exceeded budget. Second, this will accommodate an increase in the Panel's workload associated with new functions and will send an important signal that the Bank is committed to the Panel and its new functions. In the longer term, we will advocate as needed for appropriate budget increases so that the Panel's can satisfactorily carry out its tasks.

The Compliance Advisor Ombudsman⁸

Context. The CAO was established in 1999 by the Boards of the International Finance Corporation (IFC)⁹ and the Multilateral Investment Guarantee Agency (MIGA)¹⁰, with strong U.S. leadership, to serve three roles: (i) to assess whether IFC/MIGA projects were consistent with their policies; (ii) to work with complainants to help resolve grievances about IFC and MIGA projects; and (iii) to provide independent advice to the IFC and MIGA President and Management on environmental and social issues.

Budget. As shown in Table 3, the CAO's expenses vary depending on its case load and specific activities in each year. Since FY 2014, budget has risen from \$4.9 million to \$6.3 million. The CAO has three funding sources, also reflected in Table 3. These are:

1. A base administrative budget;

⁸ www.cao-ombudsman.org

⁹ As part of the World Bank Group, the IFC supports development through its lending to private sector clients in developing countries.

¹⁰ Also part of the World Bank Group, MIGA offers political risk insurance and credit enhancement guarantees to investors seeking to protect their investments against political and non-commercial risks in developing countries.

2. A supplemental budget allocation of \$475,000 (available since 2014 without conditions and requested if needed during the fiscal year); and
3. The CAO's Environmental/Social Mediation and Conflict Resolution Contingency Fund of up to \$1 million annually, to be used for specific, multi-year requirements under dispute resolution, jointly funded by IFC and MIGA.

This budget supports staff in each of the CAO's functions -- dispute resolution, compliance review and advisory -- as well as its front office, for a total of 22 CAO staff in FY 2019. In addition, it supports a roster of mediators and consultants who are called upon as needed.

Since 1999, the CAO's budget has been approved by the World Bank Group President and the Board has not been involved. As part of the effort to increase the independence of the CAO, starting with the FY20 budget cycle, the President, will submit the CAO budget request to the Board for review, advice, and direction prior to approval.

Table 3: CAO Budget (FY 2014-FY 2019)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 (estimate)
Salaries	1,688,869	1,738,494	1,813,978	2,337,519	2,525,668	n.a.
Travel	991,206	627,625	639,296	541,592	390,071	
Benefits	844,434	881,610	904,232	1,178,796	1,216,101	
Consultants	788,723	726,959	1,019,865	871,681	698,904	
Contractual Services	399,341	203,261	415,876	253,341	302,186	
Publications	69,431	57,741	97,617	62,338	99,543	
Communications & IT	49,475	34,969	26,875	38,440	53,265	
Equipment and building services	34,192	5,749	21,554	25,389	6,227	
Temporaries	23,291	41,348	53,270	60,752	55,423	
Representation and hospitality	3,925	11,427	26,180	3,391	5,483	
<i>Base and supplemental expensed</i>	<i>4,892,887</i>	<i>4,329,182</i>	<i>5,018,743</i>	<i>5,373,239</i>	<i>5,352,870</i>	
<i>Contingency Fund expensed</i>	<i>799,929</i>	<i>732,580</i>	<i>877,496</i>	<i>907,895</i>	<i>859,424</i>	
<i>Non-recurring expensed</i>					<i>126,020⁺</i>	
Total expensed	5,692,816	5,061,762	5,896,239	6,278,237	6,338,314	6,974,000
Base budget allocation	4,519,305	4,492,901	4,827,345	5,092,849	5,178,884	5,818,000 ⁺⁺
Supplement allocation	398,000	0	475,000	282,869	175,000	310,000
Contingency Fund allocation	800,000	800,000	1,000,000	907,895	883,382	856,000
Total available	5,717,305	5,292,901	6,179,841	6,283,613	6,387,266	6,984,000

+ FY18 non-recurring funding request: \$150,000 for mediator summit, of which \$126,000 was expensed.

** Reflects World Bank Group increase in allocation of benefits to each unit.

Source: CAO Annual Reports and CAO, March 2019

Caseload. The CAO's caseload is driven by the complaints it receives. For each complaint, the CAO assesses its eligibility¹¹. An eligible case then proceeds to an assessment phase which determines whether a dispute resolution or compliance process is initiated. In a dispute resolution process, the CAO works with the complainant(s) and the IFC/MIGA project sponsor as a neutral third party to help find joint solutions to problems. In compliance review, the CAO first conducts an appraisal to determine whether an investigation is merited. If so, the CAO conducts an investigation and delivers its findings, together with IFC/MIGA's Management response and any action plan, to the President of the World Bank Group. The President clears the report and response/action plan for public disclosure. Starting in fall 2018, Management and the Board agreed that in this process, the President would submit the report to the IFC/MIGA Boards for review, advice, and direction. (As of this writing, only one CAO report has gone to the Board under the new process.) The President or Board may request IFC/MIGA Management develop an enhanced action plan to address the CAO's findings. Once a dispute resolution or compliance process is completed, the CAO monitors implementation of the resulting agreement or action plan. Depending on the timing and complexity of a case, including whether it undergoes both a dispute resolution and compliance process, the CAO's work on it can exceed a year.

As shown in Table 4, since FY 2014, the number of new eligible cases each year has ranged from 9-16 per year. However, in each year, a substantial number of cases are carried over from the previous year. The result over the last five years has been a total annual caseload ranging from 46-57, with the majority of cases carried over from a previous year in monitoring. The volume of carried cases reflects a growth in complex cases received by CAO, most of which have been multi-year engagements. Complex cases involve large numbers of stakeholders and issues; large-scale projects or multiple dispersed projects; complex financing structures; and/or fragmented community groups, often in remote and conflict-affected locations. These cases are resource intensive, particularly while in assessment and dispute resolution, and require significant staff and consultant inputs. Managing this complex caseload effectively has been a strategic priority for CAO.

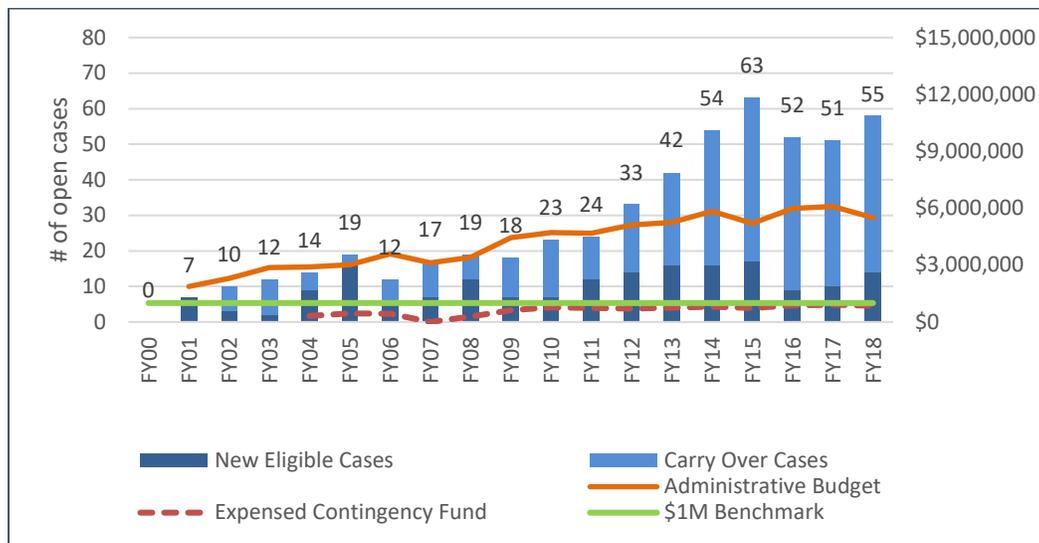
¹¹ The CAO has three eligibility criteria for new complaints to be accepted. The complaint: (i) relates to an existing IFC and/or MIGA project or one being actively considered by IFC and/or MIGA; ii) raises environmental and/or social concerns; and iii) is filed by an affected community member(s) or those mandated to represent them).

Table 4: CAO Caseload (FY 2014-FY 2019)¹²

Fiscal Year	Total Cases Handled	Cases Carried Over	New Eligible Complaints	New Ineligible Complaints	Cases Closed
FY 2014	46	35	11	16	7
FY 2015	51	35	16	9	12
FY 2016	47	38	9	17	4
FY 2017	51	39	12	17	5
FY 2018	55	41	14	14	7
FY 2019 (to date)	57	48	9	5	7

Source: CAO, March 2019

As shown in Table 5, the increase in caseload starting around FY2012 has not been matched by a commensurate increase in funding.

Table 5: CAO Caseload and Budget Trends, FY 2000-FY 2018

Source: CAO, March 2019.

Priorities and Recommendations.

Functions and governance. The CAO was established with the full suite of functions – compliance review (including monitoring the implementation of Management Action Plans), dispute resolution (including monitoring the implementation of a dispute resolution agreement),

¹² The caseload data reflect the status of cases at the end of the fiscal year, and takes into account the merging of related complaints into a single complaint for purposes of a compliance process. As a result, the case numbers are lower than if each case were counted individually and do not necessarily add up arithmetically. Every year during the period under review, the number of cases in compliance review has exceeded the number in dispute resolution.

and an advisory function. The CAO is seen as a leader among IAMs for the quality of its work. However, it continues to face important challenges, and the recent *Jam v. IFC* Supreme Court case has focused attention on the CAO and the broader accountability system at the IFC and MIGA.

In this context, the CAO, IFC and MIGA Management, and the IFC and MIGA Board of Executive Directors are considering an external review of IFC and MIGA's accountability system. The process is advancing and at the time of this writing we are optimistic that a review will take place this year that will look at the IFC's accountability system as a whole, including Management's role in addition to the CAO, and that this review will consider input from a broad range of stakeholders.

Below are some key issues that IFC and MIGA and its accountability system need to consider and our preliminary views:

- **CAO reporting lines.** The review should consider the question of whether the CAO (in its entirety) should report to the Board. The CAO now reports to the President of the World Bank Group. While this reporting line gives the CAO independence from the IFC and MIGA CEOs, if the CAO reported to the Board, the Board could take a stronger role in overseeing Management's responses and supporting the CAO budget. While there are benefits to the current reporting lines, on balance, we believe that the CAO should report to the Board. However, to maintain the functional integrity of the CAO, we believe it important that the CAO's reporting lines should not be split between the Board and the President.
- **Redress.** The review should consider whether the IFC should do more to promote redress for harms done, and potentially look at whether a funding mechanism should be established for this purpose. The IFC could consider options for the establishment of contingency resources, whether on a project, client or portfolio basis.
- **Strengthening project-affected people's engagement.** The review should consider measures to strengthen project-affected people's engagement in the CAO process. For example, IFC should consult with complainants in developing its Management Action Plan, and conduct better outreach to project-affected communities to be sure they are aware of the CAO and its services. In addition, the IFC should take a stronger position against retaliation for questioning or speaking out against a project; this is a broader issue than submission of complaints to the CAO.
- **Management responses to CAO findings.** The Management should agree to respond systematically and thoroughly to all CAO findings so that the Management Action Plan reflects Management's best effort to improve all areas of the project where CAO found weaknesses.

Budget and staffing. As noted above, the increase in the CAO's caseload starting around FY 2012 has not been matched by a commensurate increase in funding. The CAO has a complex funding structure, and a new budget process will be in place for the FY 2020 budget cycle, now getting underway as of the writing of this report.

Accordingly, our immediate priorities are to use this budget cycle to evaluate the new Board role in the budget process, to simplify the CAO's budget framework and to support a meaningful increase in CAO funding for FY 2020 over FY 2019.

In the longer term, we plan to encourage consideration of budget and staffing issues in the upcoming review, with a view to ensuring that the CAO is adequately funded and staffed to perform its important work.

Conclusion.

In order to support projects that are well developed and well executed, the MDBs need to have strong risk assessment processes and excellent due diligence in project preparation. The United States is committed to advocating for such strong policies, including environmental and social safeguards and transparency requirements. However, in those few instances when a project does not follow Bank procedure or when implementation has problems, the MDBs need strong mechanisms to address the problems and to ensure accountability.

The Inspection Panel and CAO play critical roles at the World Bank Group and the United States is committed to ensuring that they add value, that they help improve the quality of World Bank projects, and that they help provide some redress for individuals and communities who may be harmed by World Bank Group projects. The United States will pursue the priorities discussed above, in conjunction with other Board members. We look forward to working with interested members of Congress to ensure that all MDBs have world class accountability mechanisms that help address complainant grievances, contribute to overall risk management, foster inclusive development, and enhance development outcomes.