

DRAFT IFC/MIGA INDEPENDENT ACCOUNTABILITY MECHANISM (CAO) POLICY

Background, Overview of Policy, and Key Changes to CAO Process

Public Consultation
Informational Session
April 12, 2021



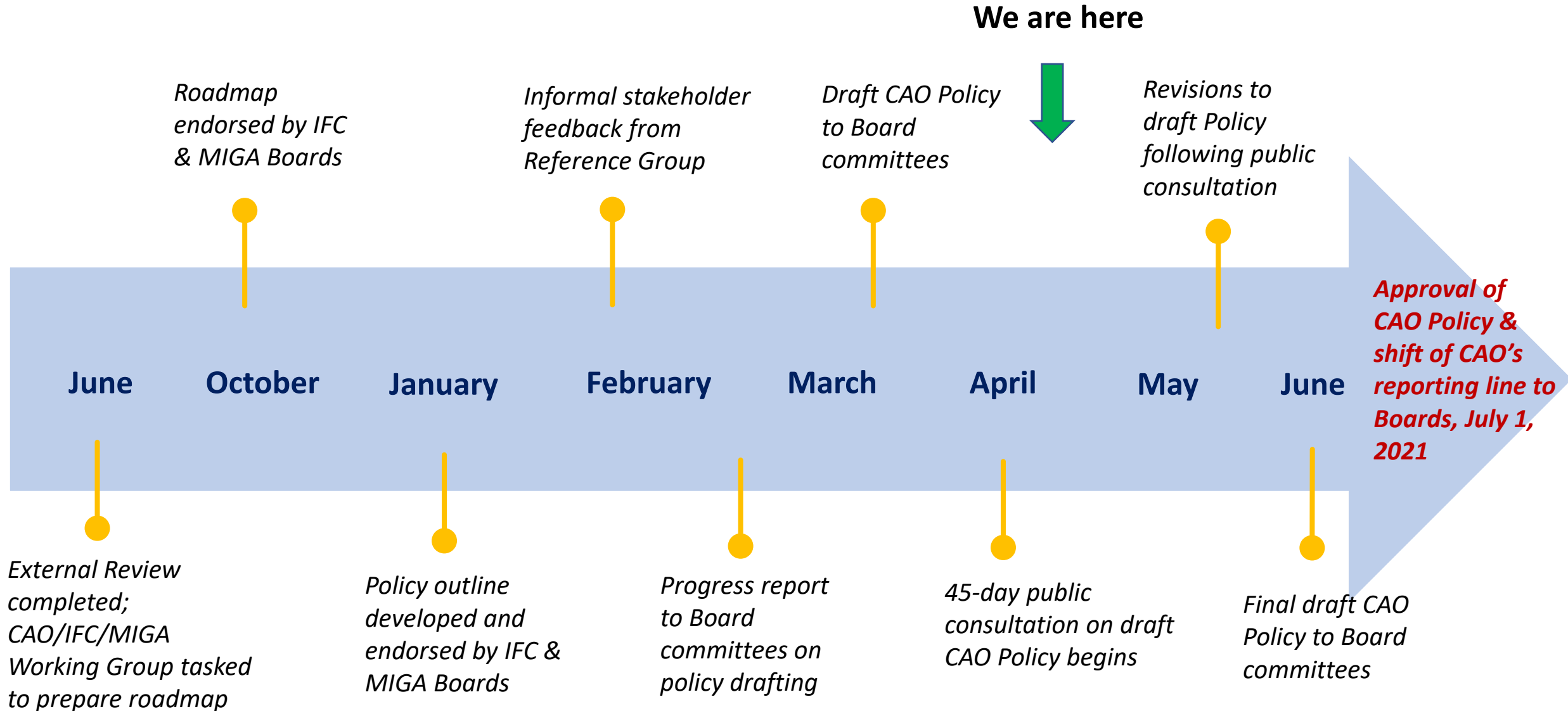
What is the IFC/MIGA Compliance Advisor Ombudsman (CAO)?

CAO is the **independent accountability and recourse mechanism** for IFC and MIGA. CAO's purpose is to:

- **facilitate the resolution of complaints** from people who may be affected by IFC & MIGA projects;
 - enhance the **environmental and social outcomes** of IFC/MIGA projects; and
 - **foster public accountability and learning** to improve performance and reduce the risk of harm to people and the environment.
-



Background: External Review & Policy Development

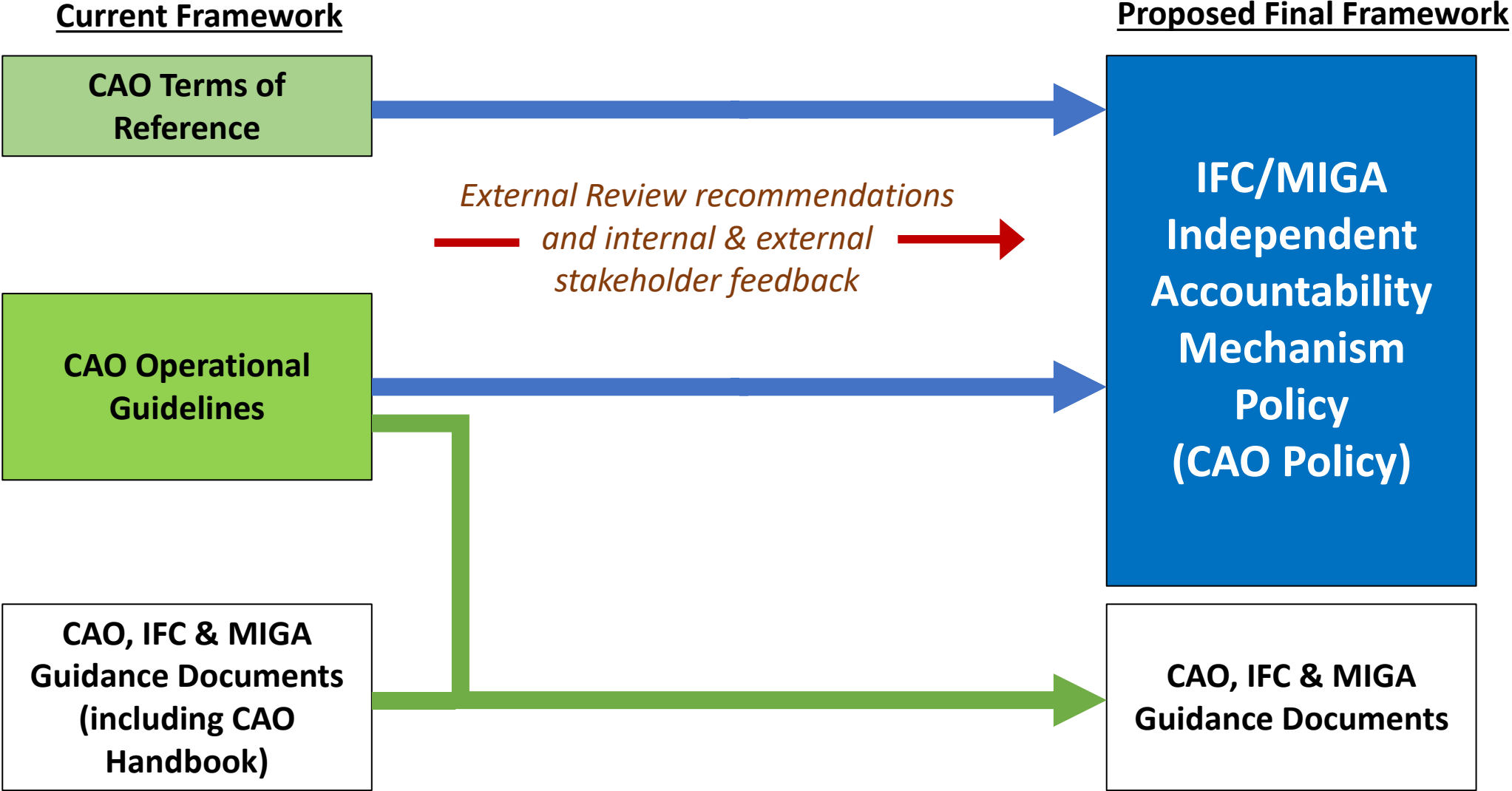


Overview: Draft IFC/MIGA Independent Accountability Mechanism Policy (“CAO Policy”)

- Draft Policy responds to recommendations from **Board-led *External Review***
- Drafted by **Joint CAO/IFC/MIGA Working Group** using a **principles-based approach** which generated constructive solutions to a range of issues.
- Builds on **CAO’s Operational Guidelines** and **20+ years of practice**; reflects **review recommendations** and **internal/external stakeholder feedback**.
- Articulates CAO’s **mandate, principles, and functions**, with clear and transparent processes—ready for **shift of CAO’s reporting line to the Boards**.
- Feedback from **public consultation** will inform final draft Policy **for review and approval by Boards** in June 2021.

Draft Policy remains subject to change following further review & comments from Boards

Draft Policy Builds on Current CAO Framework



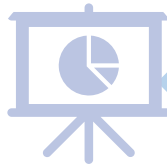
Public Consultation Process



Draft Policy provided for 45-day public consultation April 5 - May 19, 2021



Series of virtual meetings with complainant groups, civil society, IFC/MIGA clients, development finance institutions, independent accountability mechanisms, other stakeholders.



Consultation website will host draft Policy documents, translations and information materials. Written comments can be submitted in an online form or by email.



Feedback from consultations will be used by Working Group to inform finalization of the Policy for review and approval by the Boards in June 2021.

***Disclaimer:** The draft CAO policy is a consultation draft that has not been endorsed or cleared by the IFC and MIGA Boards. The draft remains subject to change following further review and comments from the Boards.*

Policy Highlights

1. Balanced to Optimize Effectiveness

- Reinforces CAO's independence with Board oversight
- Affirms value of all 3 CAO functions
- Procedural fairness & transparency
- Project-level outcomes & institutional learning

2. Promotes Access to CAO with Early Resolution of Complaints

- Complainant choice
- Opportunities for IFC/MIGA & client early engagement/early resolution
- Project-level information about CAO & other grievance mechanisms
- Integrated threats & reprisals approach

3. Clear and Predictable Processes

- Clarified eligibility criteria
- Clarified compliance processes, including Management Action Plans
- Clear timelines/expectation for case handling



Key Changes to CAO Process #1: Governance

Change in CAO's reporting line from the President to the Boards strengthens CAO's governance and independence from Management, addressing a key recommendation from the External Review.

- ✓ **CAO's reporting line** – Changed from the President of World Bank Group to the IFC and MIGA Boards of Directors to strengthen CAO's governance and independence.
- ✓ **Head of CAO** – Title changed from CAO Vice President to CAO Director-General (CAO-DG) to align with reporting line to the Board.



Key Changes to CAO Process #2: Eligibility of Complaints

CAO's eligibility criteria clarified and refined while maintaining complainant access and choice.

- ✓ **FIs & supply chain** – Greater clarity in policy regarding eligibility of complaints related to financial intermediaries (FIs), suppliers, sub-contractors.
- ✓ **Pre-Board approval** – Complaints on projects yet to be approved by Board will not be eligible.
- ✓ **Post-Exit** – Complaints on projects post-IFC/MIGA exit will now be eligible in exceptional circumstances up to 15 months post-exit.
- ✓ **Prior efforts** – Not a requirement, but a new check made by CAO during eligibility screening on prior efforts to address issues with IFC/MIGA or client. Complainant retains choice of access to CAO.



Key Changes to CAO Process #3: Assessment

Assessment process largely the same with reduced timeframe and opportunity for early resolution of issues by IFC/MIGA and client.

- ✓ **Timeframe** – Assessment period reduced to 90 business days. CAO-DG may extend assessment to 120 business days based on defined criteria.
- ✓ **Early resolution** – IFC/MIGA may support constructive resolution of issues during assessment process, with the consent of complainants and client/sub-client.
- ✓ **Disclosure of complaint** – Complaints posted on website together with CAO assessment report at end of assessment process. Client may choose to provide response, which will also be posted.



Key Changes to CAO Process #4: Dispute Resolution

Dispute resolution process now includes explicit complainant consent for transfer to compliance and potential for IFC/MIGA engagement.

- ✓ **IFC/MIGA engagement in process** – IFC/MIGA may be invited to participate in CAO dispute resolution process where appropriate and agreed by complainant and client.
- ✓ **Transfer of Cases** – Cases no longer automatically transferred to compliance where partial / no agreement reached through dispute resolution. Complainant to provide explicit consent, otherwise case will close. Exception made if concerns of threats & reprisals.



Key Changes to CAO Process #5: Compliance (Appraisal)

Clarified appraisal process with opportunity for early action by IFC/MIGA to address compliance concerns before investigation.

- ✓ **Compliance appraisal** – Criteria clarified and IFC/MIGA management and/or client may provide a response when case transfers to compliance.
- ✓ **Decision to investigate** – CAO-DG makes decision to investigate. IFC/MIGA Executive Vice President may request Board review in exceptional circumstances. Board review will be based on technical criteria and timebound.
- ✓ **Deferral** – CAO-DG may defer decision to investigate if Management response includes specific commitments commensurate to the issues raised in the complaint. Timeline for deferral typically no more than 6 months.



Key Changes to CAO Process #5: Compliance (Investigation)

Investigation process strengthens roles of complainant, client and IFC/MIGA in remedial actions to address non-compliances and harm.

- ✓ **Complainant review & comment** – Opportunity for factual review and comment on draft investigation report, with appropriate confidentiality measures in place.
- ✓ **Client review** – During factual review, IFC/MIGA may share the draft investigation report with clients.
- ✓ **Management Action Plans (MAPs)** – Timebound remedial IFC/MIGA action plans to address non-compliances and related harm. MAP process includes consultation with complainants & engagement with clients.
- ✓ **Monitoring** – CAO will verify effective implementation of corrective actions in Board-approved MAP.



Key Changes to CAO Process #6:

Advisory

Advisory process enhances collaboration with IFC/MIGA and provides greater flexibility in format of advisory work.

- ✓ **Collaboration with IFC/MIGA** – CAO will seek ways of working collaboratively with IFC/MIGA, and other actors as appropriate, when developing advisory work while maintaining independence.
- ✓ **Greater flexibility in the format of advisory work** – Written reports, interactive tools, and in-person learning will enhance impact through well-targeted and timely products.



Key Changes to CAO Process #7: Threats & Reprisals

Threats & reprisals approach integrated in the draft Policy.

- ✓ **Explicit reference to Threats & Reprisals** – Draft Policy explicitly indicates CAO, IFC and MIGA’s commitment to take threats and reprisals seriously.
- ✓ **Steps to address retaliation concerns** – Includes steps for CAO to address concerns and risks arising from threats and reprisals related to its processes or activities.
- ✓ **Integrated in policy** – Threats and reprisals referenced in core principles, complaints processes, and outreach.



Key Changes to CAO Process #8:

Outreach

Outreach mandate reiterated, including the role of IFC/MIGA in raising awareness about CAO and applicable grievance mechanisms.

- ✓ **Project-level disclosure** – IFC/MIGA to work with clients to disseminate information at the project-level about CAO and its availability as a recourse in case other mechanisms for dealing with harmful project impacts are not successful.



Key Changes to CAO Process #9: Access to Information and Disclosure

Full CAO access to IFC/MIGA project-related information and clarified regime for information disclosure in CAO reports.

- ✓ **Access to client information** – Required contractual provisions to permit CAO access to client's project records and to project site for purpose of carrying out CAO's role under the policy.
- ✓ **Disclosure of E&S information** – Presumption in favor of disclosure of E&S information in CAO reports while maintaining confidentiality of sensitive commercial information. Disclosure by CAO of non-public environmental and social information in summary form, subject to IFC/MIGA Access to Information Policy and other applicable requirements.
- ✓ **Resolution of disclosure issues** – Resolution of disclosure issues between CAO and IFC/MIGA through dialogue, including with Board Committee Chair and Vice-Chair.



Key Changes to CAO Process #10: Remedy

Access to remedy defined in policy and reflected explicitly and implicitly throughout CAO process.

- ✓ **Access to remedy** – Explicit reference that CAO facilitates access to remedy for project-affected people in a manner that is consistent with international principles related to business and human rights included within the Sustainability Framework.
- ✓ **Compliance** – Focus on harm and remediation in compliance process, including Management Action Plans
- ✓ **Advisory** – Advisory work to help reduce risk of harm
- ✓ **Responsiveness** – Early resolution and increased responsiveness by IFC/MIGA and support to clients.





Creating Markets, Creating Opportunities



Political Risk Insurance and Credit Enhancement Solutions



For more information about the consultation process through May 19, 2021, visit:

<http://www.cao-policy-consultation.org>