

Swiss Banking Ombudsman



The procedure in brief

Summary of the ombudsman procedure

THE INDEPENDENT INFORMATION AND MEDIATION AGENCY

As a neutral mediator, the Banking Ombudsman handles specific client complaints against banks with their registered office in Switzerland. The Banking Ombudsman's office is a free information and mediation institution and pursuant to the applicable rules of procedure is responsible for disputes concerning banks affiliated with the Swiss Bankers Association. The vast majority of clients seeking advice contact the Banking Ombudsman either by telephone or in writing. Personal visits at the Banking Ombudsman's premises are the exception to the rule.



Marco Franchetti
Swiss Banking Ombudsman

MANY OF THE VERBAL ENQUIRIES ARE DEALT WITH DIRECTLY

As an initial point of contact, telephone enquiries provide a number of benefits, allowing questions regarding procedure and other issues to be answered for the client in a quick and uncomplicated manner and with no administrative burden. The Banking Ombudsman can also answer questions from the client regarding contracts, banking services or standard banking conduct and thus provide an initial summary assessment of the issue at hand. He can also gather information on the current status of the dispute and discuss with the client how to proceed.

MORE COMPLEX CASES MUST BE SUBMITTED IN WRITING

As a neutral mediator, the Banking Ombudsman must be familiar with the position of both parties. It contributes its expertise with the necessary distance and analyses both viewpoints. As a rule, the Banking Ombudsman only becomes involved after the client has

confronted the management of the bank in question in writing with his or her complaint and demands, providing the management with the opportunity to state its position or deal with the issue bilaterally.

If it is not possible to reach an agreement directly, the client can submit his or her file to the Banking Ombudsman for assessment (see "Submission of file").

THE BANKING OMBUDSMAN FORMS AN INDEPENDENT OPINION

To enable it to propose a solution, the Banking Ombudsman must undertake all steps required for it to form a free and independent opinion. In most cases, the Banking Ombudsman obtains an additional statement from the bank in question, allowing it to gain as comprehensive a picture as possible. Like the banks, the Banking Ombudsman has a duty to maintain confidentiality. To become active in the matter, it therefore always requires the express written consent of the client.

THE BANKING OMBUDSMAN DECIDES ON THE COURSE OF ACTION

Should the Banking Ombudsman come to the conclusion on the basis of its independently compiled assessment of the respective issue that the bank has acted correctly in every respect, it informs the client of its decision together with a written justification. If, however, wrongdoing on the part of the bank is identified and the bank is willing to undertake appropriate corrective action, the Banking Ombudsman forwards its proposal for an amicable agreement to the client and advises that he or she accept it. In the event that the bank refuses to make the client an offer despite the request of the Banking Ombudsman, the proceedings are closed without a solution being found. The client must then decide whether he or she wishes to take legal action.

CONCLUSION OF THE OMBUDSMAN PROCESS

Whatever the outcome, the Banking Ombudsman ensures that both the client and the bank have the same level of information upon the proceedings being closed, regardless of which of the parties was "right". As a rule, the ombudsman process takes between one and two months, whereby simpler cases can be dealt with more quickly and more complex cases can require more time.

Requirements for an ombudsman procedure

ANSWER FOLLOWING QUESTIONS WITH YES:

Is the bank located in Switzerland?

YES
∨

NO Pursuant to the applicable rules of procedure, the Banking Ombudsman is responsible for mediating with the banks affiliated with the Swiss Bankers Association. It is unable to help in connection with problems experienced with branch offices or subsidiaries of Swiss banks abroad.

Can a specific financial loss be asserted?

YES
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NO The Banking Ombudsman only deals with complaints if the client can establish a specific loss or disadvantage. General objections (e.g. as regards the friendliness of staff or service quality) should be submitted directly to the bank's management.

Did you address your complaint to the bank in writing and receive a written statement?

YES
∨

NO Initially send your complaint to the management of your bank and request a written response. Should you deem this to be unsatisfactory, contact the Banking Ombudsman either verbally or in writing.

Can you confirm that no official proceedings are already under way in the case?

YES
∨

NO If an authority is already involved (e.g. court, administrative body, debt enforcement office), the Banking Ombudsman is, as a rule, unable to intervene.

SUBMISSION OF FILE

- **Understandable** explanation of the facts, problem and accusations.
- Copies (not originals!) of **important documents** such as contractual documentation, receipts, statement from the bank, other correspondence with the bank, etc.
- Precise **description of the demand** made on the bank: What steps do you want the bank to take? Reasons? Where possible, the basis of the calculation for the financial loss.
- Written **consent from the client by means of an authorisation form** for the Ombudsman to intervene directly with the bank (duty of confidentiality).

See also www.bankingombudsman.ch/enquiries

Limitations of the ombudsman process

- The Banking Ombudsman cannot influence the banks in connection with business and pricing issues. He is therefore unable, for example, to question credit decisions or object to fees listed for particular services.
- If an official authority is already working on the case (e.g. court, administrative body, debt enforcement office), the Banking Ombudsman is, as a rule, unable to intervene.
- It may occur that specific cases turn out to be unsuitable for the ombudsman process due to the high level of complexity involved or for other reasons (no prospect of providing a solution). In these cases the Banking Ombudsman may refer the client directly to the ordinary courts.
- The Banking Ombudsman does not prepare expert opinions. In the case of general banking issues without a specific area of dispute, the client must seek answers directly from his or her bank.
- The Ombudsman doesn't conduct any investigations. He is basing his assessment on information and documents submitted by the parties.
- The procedure is non-binding; the parties are not obligated to accept an arrangement.
- The intervention of the client with the Banking Ombudsman does not suspend the term of legal deadlines (e.g. statute of limitations).



CONTACT

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