

Early withdrawal penalty for breach of the withdrawal restrictions for a savings account (2)

Topic: **Fees and charges** Case number: **2021/26**

The clients had each bought a flat in January and November 2020 and therefore had to withdraw considerable sums from their savings account. They had asked their client advisor in advance about the availability of the savings amounts and the associated fees and, according to their representation, were not made aware of the early withdrawal penalty. They were only informed of the exemption limit of CHF 50,000 per year, which applied to withdrawals without prior notice, and of a maximum of 12 fee-free withdrawals per year as well as of a small fee for withdrawals in excess of this. However, at the end of 2020, they were charged an early withdrawal penalty of several thousand francs. They complained about this to the bank, which refused to refund them. Within the framework of the ombudsman procedure, the bank was then willing to refund the fees to the customers as a gesture of goodwill.

The customers added that they had already reached the exemption limit after the first withdrawals in January 2020 and did not realise that they would subsequently trigger early withdrawal penalties, as they were only billed at the end of the year. In e-banking, as in the case of their specific request to the client advisor, only the relatively minor fee that would become due after exceeding the 12 maximum withdrawals per year was pointed out as part of an explicit warning notice. The clients could have easily adjusted their behaviour and avoided the fees by cancelling the savings to be withdrawn in advance if they had been aware of the fee regulation.

It was undisputed that the fee regulation was part of the bank's account regulations and fee tariff and was presented in an understandable way. The bank relied on this when it rejected the customers' claim for reimbursement. However, the Ombudsman nevertheless understood the customers' argument that they should have been informed comprehensively and in an understandable manner about the applicable withdrawal restrictions and the early withdrawal penalties, which were significant in terms of amount, in the context of their two specific enquiries in January and November 2020. On the occasion of the January 2020 information, which was sent by e-mail, an excerpt from the bank's fee tariff was inserted, in which the termination-free amount of CHF 50,000 was listed, but not the consequences of violating this exemption limit. According to the Ombudsman's observation, it is now also common practice for withdrawals from savings accounts in e-banking to be informed of the early withdrawal penalties in each individual case.

The bank examined the case again against the background of these arguments and came to the conclusion that it was appropriate in this case to repay the early withdrawal penalties to the customers as a gesture of goodwill.