

Fees for clients domiciled abroad after termination of the business relationship

Topic: **Charges and commissions** Case number: **2019/16**

The bank terminated the entire business relationship with the customer domiciled abroad due to an adjustment of its business strategy. The latter issued the desired netting orders and wanted to repay his mortgage. The bank demanded a high early repayment penalty from the client for the repayment. The bank finally agreed to let the mortgage continue to run until the end of the fixed-interest period, but required the client to keep an account so that interest could be charged on it. For this account, it charged him an additional fee because of his residence abroad. The client defended himself against this fee without success. In the ombudsman procedure, it was finally possible to obtain the bank to waive the fee.

The client received a letter from the bank terminating the entire business relationship and requesting balancing instructions within a short period of time. He complied with this request and also wanted to repay his mortgage, which had been concluded with a fixed term, which had not yet expired. The bank demanded an early repayment fee for this. Alternatively, it was prepared to let the fixed-rate mortgage run until the agreed term expired. However, the client was forced to keep an account for this purpose so that the bank could charge the quarterly interest on it. In addition to the usual fees, the bank believed that he should pay a special fee for clients domiciled abroad, which the bank had introduced several years ago. The client did not agree to this, because he could no longer use the account for any other service. For example, he was also denied access to e-banking. He demanded that the bank refund the fees from the date on which the cancellation became effective and that the bank waive the charges until the mortgage expires. The Bank refused to do so, although in its reply to the Client's complaint it expressly stated that pure mortgage clients were exempt from the disputed fee.

After reviewing the documents provided by the client, the Ombudsman concluded that there were a number of things that had gone wrong in the matter on the part of the bank. The bank had apparently terminated the relationship with a standard letter and had probably simply forgotten the current fixed mortgage. The customer complaint was then apparently also answered with a standard letter, which did not address the customer's concerns. The bank explicitly stated in this letter that pure mortgage customers did not have to pay the fee he was complaining about. However, due to the termination of the business relationship for the remaining term of the fixed mortgage, the client was now a pure mortgage client. It was therefore not understandable to the Ombudsman why the bank refused to repay the disputed fees to the customer and to waive them for the remaining term of the mortgage. He therefore invited the bank to comment on the case and at the same time informed the bank that, without wishing to anticipate this opinion, he was of the opinion, on the basis of the information available, that the bank should accommodate the customer.

Unfortunately, the bank was only prepared to waive the disputed fees for the remaining term and refused to repay the part of the fees which had already been charged to the customer. It justified its position by stating that pure mortgage customers would only be exempted from these fees if the account balance was less than CHF 10,000. If the balance was higher, even for a short time, as was

the case here, the bank would assume that the account was being used for other services. In that case, the disputed fee would automatically become due. It could not tell the Ombudsman whether this additional condition, which was only mentioned in the ombudsman proceedings, had ever been communicated to the customer.

The ombudsman therefore had to contact the bank again. He drew its attention, among other things, to the fact that the presumption it had mentioned could probably not apply in the present case, as the customer had been denied all services connected with the account since the termination became effective and he could only use it for interest payments on the mortgage. The bank finally gave in and also paid back the fees already charged to the client. The Ombudsman was pleased that this case, which was in itself clear to him, could finally be resolved at the second attempt. In the Ombudsman's view, the client could probably have insisted on the early repayment of the fixed-rate mortgage free of charge. The bank had terminated the entire business relationship on a specific date without there being any reason to terminate the fixed-rate mortgage. This could have been understood by the customer as an offer for free early repayment. However, since he did not raise this point himself and limited himself to disputing the fees, the Ombudsman did not take any action in this respect. The Ombudsman considered it regrettable that the bank was unable to come up with an apology to the customer in view of the numerous errors and contradictions.