

Financial Services Act: sensible, up-to-date legislation

At his annual media conference the Swiss Banking Ombudsman spoke positively about current developments in the legislation project Financial Services Act. Marco Franchetti said: "From the perspective of the Banking Ombudsman, the Federal Council's statement contains sensible and up-to-date provisions on arbitration and, where necessary, access to the courts." In particular, he welcomed the fact that authority to issue rulings is to remain with the civil justice system. As the Federal Council wishes to find an arrangement for smaller disputes to solve the problem of what can be prohibitive costs for going to court, in future bank clients would be able to obtain a court decision without risking disproportionate costs.

- **2,103 cases dealt with by the Banking Ombudsman in 2015 - 5% more than in the previous year**
- **Amount in dispute less than CHF 100,000 in 88% of cases**
- **Financial Services Act: positive view of Banking Ombudsman on proposals by the Federal Council on arbitration and access to justice**
- **New website for search for long-term dormant assets**

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One of the focuses of the work done by the Swiss Banking Ombudsman has been complaints from customers having negatively been affected by the Swiss National Bank's decision to discontinue the minimum exchange rate of Swiss frank 1.20 per euro and the lowering of negative interest rates. Marco Franchetti commented: "Many customers assume there is some sort of "official" exchange rate banks have to apply," but this is not the case. Some private customers "who speculated on currency exchange rates aiming at making a profit from market movements " suffered considerable financial losses because banks specialising in this business do normally not check if these high-risk transactions are suitable and appropriate for their customers. "Unlike with securities trading, there is not legislation in this regard for currency trading."

As for the negative interest rates, the Ombudsman faced contradictory stances from certain banks: on the one hand they argued that with LIBOR mortgages their contracts should not be interpreted literally, since natural logic would suggest that even when the LIBOR rate is negative the bank should always at least receive the lending margin agreed. On the other hand, when it came to calculating the prepayment penalties owed by customers paying back fixed-rate mortgages early they saw no objection to applying negative reinvestment rates in full and demanding that customers pay more than the total of all interest the bank would have been entitled to if the contract had remained in place.

In 2015 the Ombudsman's Office received 880 written cases and 1,182 enquiries by telephone. Including the cases not completed in 2014, a total of 2,103 cases were dealt with. This represents an increase of 5% compared with the previous year (2,002 cases). In 2015, German-speaking Switzerland accounted for 43% of the enquiries, French-speaking Switzerland for 15% and Ticino for 3%. The number of enquiries from abroad declined slightly, but remains at a relatively high 39% for various

reasons (tax treaties, fees for clients domiciled abroad, relationships terminated by the bank). The Banking Ombudsman records the amount in dispute where possible and meaningful. In 88% of those cases the respective amount was below CHF 100,000.

For over 20 years it has been possible to search for dormant assets in banks across the whole of Switzerland through the Swiss Banking Ombudsman. Because some of these dormant assets have not been claimed, parliament has decided that where this has been the case for 50 years (i.e. where the last contact between customer and bank was more than 60 years ago), banks are to surrender the assets to the federal government. However, in the interests of the beneficiaries, this shall only be done after a publication has taken place. The corresponding information can be searched on a specially created website set up with the assistance of the Ombudsman: www.dormantaccounts.ch.

Press conferences

Annual Reports 2015 (in German)

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2015 In Brief