

Request for information after presentation of an old account card

Topic: **Account/savings book** Case number: **2022/03**

In May 2022, the client presented the bank with a copy of an account card issued by its legal predecessor for an account in his name and requested a statement of account and current information about it. The bank informed him that the account had been opened with its legal predecessor in 1993 and had been closed in 1997. The client took the view that the bank was obliged to provide evidence for its position and turned directly to the Ombudsman without making use of the bank's offer to answer any supplementary questions. He asked the Ombudsman to investigate the case. The Ombudsman provided the client with explanations of the problem presented in the form of a decision.

The client complained that the bank could not produce any evidence to support its opinion. Since it could not produce a document showing that it was he who had initiated and signed the balancing, it was, in this view, in breach of good faith.

The Ombudsman drew the client's attention to the fact that his function was to act as an independent information and intermediary body for clients of the financial institutions affiliated to him. As an intermediary, the Ombudsman did not have the powers and instruments to conduct an investigation at a bank to verify the truth of information provided by the bank about an account opened with a predecessor bank. The Ombudsman noted to the client that he did not appear to have any account documents or bank correspondence that would contradict the information he received from the bank in May 2022.

He explained to the client that the bank, like all companies in Switzerland that are required to keep accounts, is legally obliged to retain records. However, this obligation is limited to a period of 10 years based on Article 958f paragraph 1 of the Swiss Code of Obligations. After expiry of this period, files and data may be destroyed. Accordingly, the bank no longer has to be in a position to provide information about previous facts. After the bank had informed the client that his account had been balanced in 1997, it could not be to the bank's disadvantage if it actually no longer had any account statements or balancing documents and the client himself could not produce any documents that could refute the bank's information.

Finally, he explained to the client that there is a strict regulation in Switzerland according to which the banks are obliged to make efforts to re-establish contact with a client if contact is broken off. In addition, the personal details of the holders of contactless accounts had to be fed into a central database. Compliance with these obligations must be verified by the bank's auditors.

The Ombudsman regretted that he was unable to give the client a different opinion and expressed the hope that these explanations could serve as guidance.