

## The time of “free services” is gone!

- **The time of “free services” is gone!**
- **E-banking: when the customer makes a mistake, who is responsible?**
- **Banks face major challenges when it comes to offences involving elderly people.**
- **First court rulings on negative reinvestment rates in the case of charges due to early repayment penalty.**
- **Clear expectations of the Banking Ombudsman on banks regarding implementation of the Financial Services Act (FinSA).**
- **1926 cases concluded in 2018: more from Switzerland, fewer from other countries.**

At his annual press conference, the Swiss Banking Ombudsman pointed out that he was still seeing a lot of disputes involving bank fees. It is important for fees to be laid down transparently in a contract and for the necessary principles to be adhered to in the event of contractual amendments. The adequacy of bank fees will not be assessed by the Ombudsman however since issues of general business and pricing policy are beyond the scope of his remit. Issues regarding the fairness of fees have been dealt with by the price regulator and the State Secretariat for Economic Affairs (SECO). “Enforcement of the principles concerning fees applied by the Banking Ombudsman for years has, to some extent, become more difficult”, says Marco Franchetti.

Increasing digitalisation enables customers to perform more and more transactions themselves and even have their “bank in their pocket”. “Customers must be vigilant when using electronic banking services”, warns the Ombudsman. If customers make mistakes, in most cases, the bank will not be able to correct or detect these. Customers must take responsibility for such mistakes themselves.

In the so-called “grandparent scam”, elderly people are regularly misled into withdrawing large sums of cash from their bank under false pretences. The banks face the challenge of distinguishing between legitimate instructions from elderly clients and those where deception or fraud motivates the customer to issue the instruction. It is clear that this can only be reliably assessed with difficulty. The Ombudsman receives roughly the same amount of complaints in which it is asserted that the bank neglectfully authorised cash withdrawals as those in which indignant customers claim that the bank wrongfully questioned their mental competence.

Since the start of the negative interest environment in Swiss francs, the Banking Ombudsman has been receiving an increased number of complaints regarding early termination penalties for fixed-rate mortgages redeemed early. There are now two court rulings which, based on interpretation of the contracts in question, concluded that taking negative reinvestment rates into consideration when calculating such penalties was not lawful. These are owed up to the amount of interest agreed upon for the remaining term of the fixed-rate mortgage only.

The new Financial Services Act (FinSA) obliges banks to make their customers aware of the possibility of Ombudsman proceedings if they refuse a right claimed by a customer. “I expect banks to deal with customer complaints thoroughly and to justify in writing their reason for refusing the claim to the customer before making reference to Ombudsman proceedings”, stresses the Ombudsman.

In 2018, the Banking Ombudsman’s Office concluded a total of 1926 cases. 1129 were conducted verbally and 797 in writing. This saw a drop in total cases by 5% compared with the previous year. Once again, fees were the core issue in approximately 15% of those cases. The most common issue raised however was problems with the execution of banking transactions. It was interesting that written cases from Switzerland rose by a good 4%. Cases from other countries on the other hand fell by 20%. It was possible to conclude 84% of the complaints within the desired timeframe of three

months. 96% of the Banking Ombudsman's proposed solutions were accepted by the banks.

In 2018, 408 new enquiries were received for searching for assets without contact and dormant assets. It was possible to make the assets of 41 customer relationships, deposits in the amount of 11.7 million Swiss francs, and the contents of 4 safe deposit boxes available to eligible beneficiaries.

Press release

Annual Report 2018 (in German)

Annual Report 2018 (in French)

2018 in Brief

Pictures Marco Franchetti