

## Swiss Banking Ombudsman



The procedure in brief

# Summary of the Ombudsman procedure

## **THE INDEPENDENT INFORMATION AND MEDIATION OFFICE**

The Swiss Banking Ombudsman acts as an information and mediation office without jurisdictional authority for clients of member institutions of the Swiss Bankers Association. He deals with their specific questions and complaints concerning banking and financial services provided by the member institutions (financial businesses).

## **MANY OF THE VERBAL ENQUIRIES ARE DEALT WITH DIRECTLY**

In a telephone call, questions regarding the procedure and other issues, such as banking contracts, financial services or standard practices, can be answered in a quick and uncomplicated manner and without administrative effort for the client. A first idea of the status of the dispute can be gained and the further steps discussed.

## **MORE COMPLEX CASES MUST BE SUBMITTED IN WRITING**

As a neutral mediator, the Ombudsman must know the positions of both parties. He brings in his expertise with the necessary distance and analyses the different views. As a matter of principle, the Banking Ombudsman only becomes active after the client himself has addressed the Management or Complaints Management Office of the financial business with his complaint, his arguments and concrete demands in writing and has given the latter the opportunity to comment its position or settle the matter directly. If no agreement can be reached in this way, the client can submit his file to the Ombudsman for further examination (see "The requirements").

## **THE OMBUDSMAN FORMS AN INDEPENDENT OPINION**

In order to propose a solution, the Banking Ombudsman can do whatever he deems necessary to ensure a free and independent opinion. The Ombudsman often asks for an additional statement from the financial business concerned in order to gain as comprehensive a picture as possible. The Banking Ombudsman, like the financial business, is bound to confidentiality. Therefore, he always requires the authorization of the client to contact the financial business. In order to form an opinion, the Ombudsman can also request further information and documents from the client.

## **THE OMBUDSMAN DECIDES ON THE ACTION**

If, after having looked into the documents and information available to him, the Banking Ombudsman comes to the conclusion that there are no indications of a wrongdoing on the part of the financial business, or if a mediation appears to have no chance of success, he informs the client, usually with a written explanation.

If the analysis shows that there are indications of a wrongdoing on the part of the financial business which has caused a damage or disadvantage to the client and if a mediation does not appear to be hopeless from the beginning, the Ombudsman contacts the financial business.

## **CONCLUSION OF THE OMBUDSMAN PROCEDURE**

If the financial business is willing to settle the dispute, the Ombudsman will forward its offer for an amicable settlement to the client who then must decide whether to settle the dispute by accepting the offer.

If, despite the proposal from the Ombudsman, the financial business refuses to offer a solution, the case is closed without result. A copy of the respective notice to the client is sent to the financial business. It is then up to the client to decide whether he wants to take legal action.

If the indications of a wrongdoing on the part of the financial business cannot be substantiated, or if they are disproved, the Ombudsman informs the client and closes the procedure with a notice of which a copy is sent to the financial business.

In cases where crucial facts of a dispute are presented differently by the client and the financial business, the matter can usually not be resolved in the Ombudsman procedure, especially if both parties insist on their respective position and if no clear evidence is submitted. The Ombudsman must in such cases terminate the mediation without result and issues a final notice to the client with copy to the financial business. The client is free to submit the matter to the competent court.

# The requirements for an Ombudsman procedure

## PLEASE ANSWER FOLLOWING QUESTIONS:

Does your concern relate to a financial business that is affiliated with the Swiss Banking Ombudsman?

**YES**



**NO** →

According to the Rules of Procedure, the Banking Ombudsman is responsible for member institutions of the Swiss Bankers Association ([www.swissbanking.org/en/](http://www.swissbanking.org/en/)).

Have you suffered any concrete damage or disadvantage as a result of the behavior of the financial business, which you can demonstrate?

**YES**



**NO** →

The ombudsman can only deal with complaints if the client can demonstrate that a tangible damage or disadvantage has occurred. So, for example, if you feel that you have been treated in an inappropriate or unfriendly manner without a concrete damage having occurred, please contact the financial business in writing.

Have you addressed your written complaint to the financial business and received a written statement?

**YES**



**NO** →

First address your complaint with your specific claim and a comprehensible justification by letter to the financial business and ask it for a written response. If this is unsatisfactory, you can turn to the Banking Ombudsman.

Is, or was, a court, an arbitration tribunal or an administrative authority active in your case?

**NO**



**YES** →

If a court, arbitration tribunal or administrative authority is or has been seized of the case, the Banking Ombudsman cannot generally intervene.

Have you compiled (copied or scanned) the required documents and read the restrictions below?

**YES**



**NO** →

Please copy the necessary documents, complete and sign the authorization form which you will find on our website [www.bankingombudsman.ch/en/complaint](http://www.bankingombudsman.ch/en/complaint). For an online submission, please scan the documents and upload them on the same website.

## The Ombudsman normally requires the following documents:

- A **letter to the Ombudsman** setting out in a clear and comprehensible way the facts of the case, the problem and your points of complaint. The letter must also contain a substantiated description of your expectations and claim, as well as reasonable arguments and a comprehensible calculation of the damages claimed: What should be achieved with the financial business? On what basis? Why do you disagree with the statements of the financial business?
- A copy of **your complaint letter** to the Management or Complaints Management Office of the financial business. This letter must contain a specific claim, a comprehensible justification and a request for a written reply.
- A copy of the **financial business' reply** to your complaint.
- Copies of **other correspondence** with the financial business in the complaint matter.
- Copies of **important documents** such as contractual documents, bank statements, etc.
- Your consent, that the Ombudsman may request information from the financial business. Normally, this consent is provided by means of the **Authorization Form**.

### Submission by post:

Swiss Banking Ombudsman  
Bahnhofplatz 9  
P.O. Box  
8021 Zurich/Switzerland

### or online:

[www.bankingombudsman.ch/en/complaint](http://www.bankingombudsman.ch/en/complaint)

# The limits of the Ombudsman procedure

- The Banking Ombudsman cannot influence financial businesses on their business and tariff policy issues. For example, he is not allowed to question credit decisions, to object to a schedule of fees for services or to influence the design of service offers.
- It may happen that a certain case is not suitable for the Ombudsman procedure or that the procedure will not be initiated or has to be terminated without result for another reason (e.g. lack of prospects, questions of evidence). In such a case, the client is free to go to the ordinary courts.
- If a court, arbitration tribunal or administrative authority is or has been seized of the case, the Banking Ombudsman generally cannot intervene.
- The Ombudsman does not carry out investigations or formal evidence procedures. He assesses the case on the basis of information and documents submitted by the parties.
- The Ombudsman has no decision-making power. He can make his own factual and legal assessment of the dispute and propose solutions to the parties, but he cannot issue binding instructions.
- The Banking Ombudsman is not responsible for abstract legal and economic issues and does not provide expert opinions.
- The Ombudsman procedure usually takes one to two months. Simpler cases can also be dealt with within a shorter period. With increasing complexity, a procedure may take longer.
- The client's intervention with the Banking Ombudsman does not suspend or interrupt the course of legal deadlines (limitation periods, forfeiture periods, court or administrative time limits). It is the client's responsibility to ensure that such periods are observed.

## Contact

Swiss Banking Ombudsman  
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A visit to the ombudsman's office is only possible by **appointment**.