

Financial Ombudsman

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The Financial Ombudsman is an independent service empowered to settle disputes between financial institutions and their customers. The ombudsman's office is designed to serve as an independent authority that would be engaged when all internal restructuring efforts made on a private basis between the banks and borrowers have been exhausted, in order to assist the parties to reach a settlement without resorting to the courts.

Role: The Financial Ombudsman's role is the examination of complaints by consumers against financial undertakings with a view to settle the complaints of consumers of the services of financial undertakings, against the financial undertakings.

Jurisdiction: The submissions of complaints to the Financial Ombudsman need to fulfil the following criteria: (i) The complaint must be submitted by a consumer; (ii) Before submitting the complaint to the Financial Ombudsman, the complaint is submitted to relevant financial undertaking in writing within a period of 15 months from the date s/he became, or ought to have reasonably become, aware of the harmful action/omission of the financial undertaking. The financial undertaking must acknowledge receipt of the complaint (whether it responds to it is only relevant in terms of timing); and (iii) The financial undertaking must have, at the time the complaint refers to, been operating on the basis of a lawfully issued license (or by virtue of the freedom of establishment). Further to the above, the Financial Ombudsman does not undertake the examination of complaints which – (i) Relate to transactions that do not fall under the competences of the competent supervisory authorities; (ii) On the day of their submission, a court of the Republic has already issued a decision on the same complaints or litigation procedures are in progress as regarding those complaints; (iii) Are submitted to the Financial Ombudsman after 22 months from when the consumer became aware, or ought to have reasonably become aware of the harmful action/omission; or (iv) According to the opinion of the Financial Ombudsman, did not result in significant loss. .

Who can complain? A consumer may submit such a complaint given that they are a natural person, a legal person (annual turnover limit applies), a charity foundation/association (annual revenue limit applies), a trust (net assets limit applies) or a provident fund (net assets limit applies).

Non-binding: The decisions rendered by the Financial Ombudsman are not binding, unless both parties involved (i.e. both the consumer and the financial undertaking) agree for them to be so. The Financial Ombudsman, prior of initiating the examination procedure of the complaint, informs the consumer and the financial undertaking in writing that his decision is not binding and requests that they state in writing, up to the

date of completion of the examination of the complaint (the date of completion of the examination of the complaint included) and before the issuing of his decision, whether they expressly accept the binding nature of his decision. If any of the parties involved does not state in writing the acceptance or non-acceptance of the binding nature of the decision, the Financial Ombudsman regards that party as not accepting the binding nature of his decision .

Decisions: When the Financial Ombudsman completes the examination of the complaint, he issues his final decision in writing and communicates it to both the consumer who submitted the complaint and the financial undertaking against which the consumer had submitted the complaint. The Financial Ombudsman reaches his final decision, taking into account the legal framework within which financial undertakings operate, the relevant professional codes of conduct and the generally accepted business practice followed, aiming at the mediation for the settlement of complaints submitted to him. The decisions of the Financial Ombudsman will include the following: (a) the settlement achieved by the method of mediation or, depending on the case, that no settlement has been achieved by the method of mediation; (b) in the case where the parties involved had not accepted the binding nature of the decision, a request towards the interested parties to notify him in writing within two (2) months, whether they accept the decision issued; (c) the deadline within which the parties involved must comply with the decision; and (d) that the acceptance by both parties of the binding nature of the decision, renders it final and not subject to appeal before the Court. If within the deadline of two (2) months specified in the decision, the consumer or the financial undertaking or both decline the decision and/or do not notify in writing the Financial Ombudsman, the Financial Ombudsman may, immediately after the lapse of the deadline, regard that the consumer and the financial undertaking have declined his decision and therefore that decision is no longer regarded as binding on anyone .

Time-frame: The final written decision of the Financial Ombudsman is issued within six (6) months from the date of receipt of the complaint. Note, that the Financial Ombudsman exceptionally, and provided that this is justified under the circumstances, may extend the six-month period by a further period of three months.

If the decision is in favour of the consumer: In case that a complaint is examined and the final written decision is issued in favour of the consumer and against the financial undertaking, the Financial Ombudsman in his decision will determine payable monetary compensation (which the Financial Ombudsman considers fair for the actual financial loss suffered by the consumer) by the financial undertaking to the consumer. This may not exceed the amount of €50.000. The decision may also: (a) make a recommendation to the financial undertaking to take, what in his opinion is regarded as, fair and appropriate measures to remedy the problem or dispute and the avoidance of the creation of a similar dispute in the future; and/or (b) impose the payment by the financial undertaking to the Financial Ombudsman of the cost, up to the amount of three hundred euro (€ 300), for services that may have been provided to the Agency by an expert during the examination of the complaint. The Financial Ombudsman may, if he considers that the fair compensation for a complaint entails the payment of a

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higher amount than €50.000, recommend to the financial undertaking to pay voluntarily and additionally to the consumer, the difference between €50.000 and the largest monetary sum that the Financial Ombudsman considers as a fair compensation. The Financial Ombudsman may, in his decision, determine that financial compensation includes the payment of interest, specifying the date from which the calculation of interest begins (the interest rate is determined under s.33 of the Courts Law) .

Non-compliance by the financial undertaking: In case a written decision is issued by the Financial Ombudsman in favour of the consumer and against a financial undertaking, and the consumer and the financial undertaking have accepted the binding nature of the decision of the Financial Ombudsman, and the financial undertaking does not comply with the decision of the Financial Ombudsman within the period provided in that decision, the consumer may take legal measures against the financial undertaking whilst in parallel informing in writing the Financial Ombudsman of this action.

False statements: A person who, in supplying information for any of the purposes of the Law or any Directives issued pursuant to the Law, knowingly makes a false, misleading or deceptive statement as to an essential element of such statement, or withholds any essential element or in any way interferes with the investigation of the complaint, shall be guilty of an offense and upon conviction shall be subjected to imprisonment for a period of not exceeding two (2) years or to a fine not exceeding ten thousand euro (€ 10.000) or to both such penalties. The Financial Ombudsman has the discretion to decide that any party involved in the complaint may be exempted of any of the consequences of non-compliance if he considers that the non-compliance is due to an error, omission or other reasonable cause and the decision for exemption is fully justified.

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