

# Rules of Procedure for Finanzombudsstelle Schweiz (FINOS)

## Article 1. Task of the ombudsman service

1.1 The Finanzombudsstelle Schweiz (FINOS), hereinafter "FINOS", carries out its activities in accordance with its Articles of Association (Art. 2). It acts for clients of financial service providers affiliated to FINOS as an information and intermediary without decision-making authority.

## Article 2. Competence of FINOS

2.1 The ombudsman deals with questions and complaints from customers of affiliated financial service providers. Any natural or legal person directly concerned may contact it.

2.2 The ombudsman declares that he is not responsible for

- customers whose financial service providers are not affiliated with it
- questions of general business and tariff policy
- abstract legal and commercial issues
- Transactions with foreign branches of Swiss financial service providers
- Cases which are already the subject of official proceedings or which are or have been transferred to such proceedings before completion of the ombudsman procedure or which have been finally settled.

2.3 Contacting the ombudsman does not interrupt or inhibit the course of legal periods such as limitation, forfeiture, court or administrative periods. It is the Client's responsibility from the financial services provider to ensure that such deadlines are met.

### Article 3. Powers and duties of the ombudsman

3.1 The ombudsman service endeavours to conduct arbitration proceedings as unbureaucratically, fairly, quickly and impartially as possible.

3.2 The ombudsman submits and represents mediation proposals. A substitute solution ensures that a mediator can always be reached within a reasonable period of time.

3.3 The ombudsman service undertakes everything that contributes to a free formation of its own opinion. It is authorised to obtain all necessary information from the financial service provider concerned and to inspect the files in the event that such information is submitted to it. It shall release the client of the financial service provider from the obligation of business secrecy in this particular case.

3.4 The ombudsman is subject to the duty of confidentiality. The parties have no right to inspect the correspondence of the ombudsman with the other party. Statements made by the parties within the framework of the mediation procedure and correspondence between one party and the ombudsman may not be used in any other procedure. In civil proceedings, the ombudsman has the right to refuse to cooperate pursuant to Art. 166 para. 1 lit. d of the Schweizerischen Zivilprozessordnung (Swiss Code of Civil Procedure).

### Article 4. Obligations of financial service providers

4.1 Affiliated financial service providers affected by a request for mediation must participate in the procedure.

4.2 They must comply with FINOS' subpoenas, requests for comments and requests for information in due time.

### Article 5. Procedure

5.1 The client of the financial service provider may contact the ombudsman in person, in writing or by means of electronic communication.

5.2 The procedure shall be conducted in the official languages German, French or Italian. Deviating agreements between the parties and the ombudsman are reserved.

5.3 The ombudsman may deal with simple enquiries orally. It informs the client of the financial service provider and advises him on how to proceed.

5.4 It may require the financial service provider's customer to first address his question or concern directly to the financial service provider and to request a written reply from him.

5.5 If more detailed clarifications are necessary, the ombudsman may require the client of the financial service provider to submit his request to the ombudsman in written form and to submit a copy of the relevant documents to the ombudsman. In such a case, the ombudsman's opinion is usually also submitted in written form.

5.6 The ombudsman shall hear both parties.

5.7 The ombudsman acts as a mediator and proposes solutions to the parties. The parties are not bound by it. In principle, they remain free in their decisions.

5.8 The ombudsman service may refuse to conduct or discontinue mediation proceedings which, for example, due to their complexity are not suitable for finding a solution in the mediation procedure or in which finding a solution in the mediation procedure appears to be hopeless. The treatment of a mediation request can also be rejected if it is obviously abusive.

5.9 If no agreement can be reached or if such an agreement seems hopeless, the ombudsman may, on the basis of the information available to him, provide the parties with their own factual and legal assessment of the dispute and include it in the notification of the conclusion of the proceedings.

5.10 The ombudsman takes final decisions on questions of intervention and proposed solutions.

5.11 In well-founded cases, in particular in the case of new facts, the ombudsman may, upon request, come back with decisions on questions of intervention and proposals for solutions.

## Article 6. Serial cases

6.1 For serial cases, the following provisions of this Article shall apply in addition to or in deviation from the general procedural provisions of these procedural regulations.

6.2 Requests for mediation can be qualified as serial cases if they

- occur or are expected to occur in large numbers in a limited period of time, and
- relate to the same or a similar product, the same or a similar service or the same or a similar situation, or
- for the same or a similar reason by customers of the financial service provider.

6.3 The qualification of certain complaints as serial cases should help to ensure that the same or similar cases can be dealt with uniformly, efficiently and in a timely manner and that a consistent and fair solution can be found.

6.4 Upon request, financial service providers should inform the ombudsman if they have knowledge of facts that could lead to complaints that meet the criteria for possible qualification as a series case.

6.5 If the ombudsman comes to the conclusion, taking into account the opinion of the financial service provider and taking into account the other circumstances, that the criteria for qualification as a serial case exist and that the handling of the corresponding complaints as serial cases appears to be appropriate, he shall inform the financial service provider accordingly and enter into a dialogue with it in order to reach agreement on the following points:

- the recognition of the existence of a serial case
- the collective treatment of complaints
- the communication to affected clients of the financial service provider regarding the collective handling of their complaints.

## Article 7. Costs

7.1 The procedure is generally free of charge for the customer of the financial service provider.

7.2 The ombudsman shall charge the financial service provider a basic fee and processing fees, which shall be based on its expenditure. It draws up a fee and cost regulation, which is approved by the Executive Board.

## Article 8. Public relations

8.1 The ombudsman informs the public about its activities. To this end, it publishes an annual activity report. It does not comment publicly on individual cases. It does not disclose any names.

8.2 The ombudsman may provide financial service providers with general information on its practice.

*The German version of this Rules of Procedures was approved by the FINOS board on 27 November 2019 and come into force on 1 January 2020. In case of ambiguity, the German version of this document is valid.*