



PERFORMANCE REPORT

**INDEPENDENT DIVISION OF THE
OMBUDSMAN FOR THE BANKING
SYSTEM**

for the period 01.04.-31.12.2014

Sarajevo, January 2015

INTRODUCTION

In accordance with the competences defined by the Law on Banking Agency of the Federation of Bosnia and Herzegovina („Official Gazette of the Federation of B&H“, No. 9/96, 27/98, 20/00 – High Representative (45/00 – confirmation of Parliament), 58/02 – High Representative, 13/03 – High Representative, (19/03 – confirmation of Parliament), 47/06 – High Representative, 59/06, 48/08, 34/12 and 77/12, hereinafter: the Law), following a public competition and by the Decision of the Board of Directors of the Banking Agency of the FB&H, No.: U.O.-56-16/14 from 18.03.2014, the Ombudsman for the banking system of the Federation of B&H was appointed. In the time since 01.04.2014, the start of operations of the independent organisational unit of the Ombudsman for the banking system, which currently employs a person managing the department – the Ombudsman, basic material and technical conditions for operations were created, by-laws regulating the operations and actions of the Ombudsman were adopted and measures to resolve complaints/requests of users of financial services were taken.

The Ombudsman, as one of the protectors of the rights of users of financial services in the Federation of B&H, enables a fair and quick settlement of disagreements and disputes between banking system institutions and users by independent persons with a minimum of formality via **conciliation, mediation or other peaceful means**. In their work, the Ombudsman is required to adhere to the principles of legality, impartiality, professionalism, equal rights and fairness, efficiency and transparency.

The Ombudsman's main competences as defined by the Law are:

- providing information on the rights and obligations of users and providers of financial services;
- monitoring and proposing activities for improving relations between users of financial services and financial institutions of the banking system of the Federation of B&H;
- researching activities on the financial market ex officio or on the basis of complaints in order to protect the rights of users of financial services;
- handling complaints of users of financial services, submitting replies, recommendations and opinions, as well as proposing measures for resolving complaints;
- mediation in the peaceful settlement of disputes between users of financial services and financial institutions of the banking system of the Federation of B&H;
- issuing guidelines or recommendations on specific standard conditions or activities for the implementation of good business practices in the business operations of financial organisations of the banking system of the Federation of B&H,
- proposing to the Agency's Board of Directors that it adopt acts within its competences in the area of protecting the rights of users of financial services;
- cooperating with competent judicial, administrative and other bodies and organisations, as well as with supervisory and control institutions at home and abroad, within their competences;

- cooperation with other authorities and entities responsible for the protection of consumer rights;
- taking other actions in the area of protecting the rights of users of financial services.

The entry into force of the Law on Protection of Users of Financial Services („Official Gazette of the FB&H“, No. 31/14) expanded the scope of the Ombudsman's work in the area of protecting users of financial services. By stipulating user protection, this Law has provided professional and impartial assistance to users, an easier way of and approach to resolving disputes in relation to the services provided by financial institutions and greater confidence of the client in the financial system.

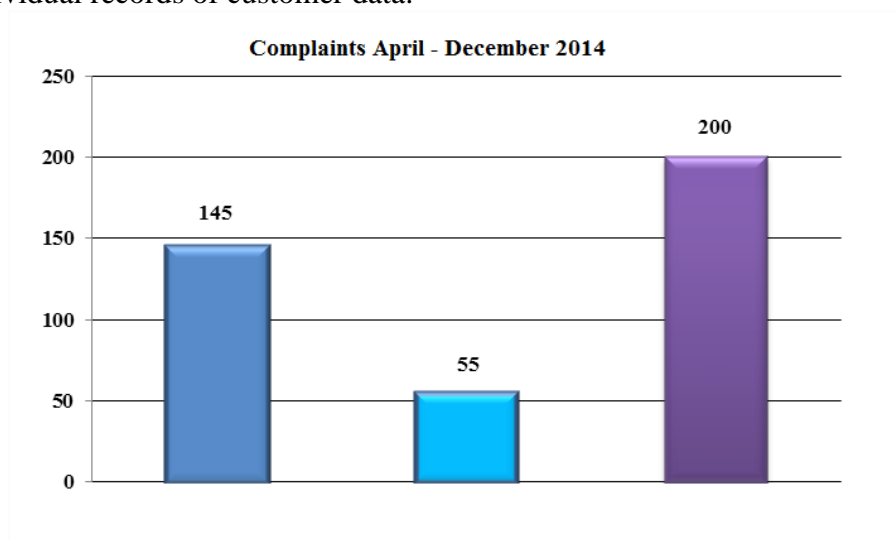
The most important novelties this Law prescribes are as follows: greater transparency of business operations (in terms of availability of information to the client in the pre-contracting stage and up to the adoption of the decision), equitable and fair treatment (symmetry of information, egalitarian relationship of users and providers of financial services), a bilateral contract (all amendments must be agreed upon by all the parties), the right to withdraw, i.e. the so-called cooling period (14 days from when the contract was signed to when the client can withdraw from the realisation of that loan), etc.

1. COMPLAINTS AND REQUESTS OF USERS OF FINANCIAL SERVICES

1.1 Receipt and Resolution of Customers and Guarantors' Complaints

The public is kept up-to-date on the independent division of the Ombudsman, the activities and scope of work of the Ombudsman through the **information** published on the website of the Banking Agency (www.fba.ba), where users are given the opportunity to contact the Ombudsman by e-mail as well ombudsman@fba.ba, using the form on the home page of the website.

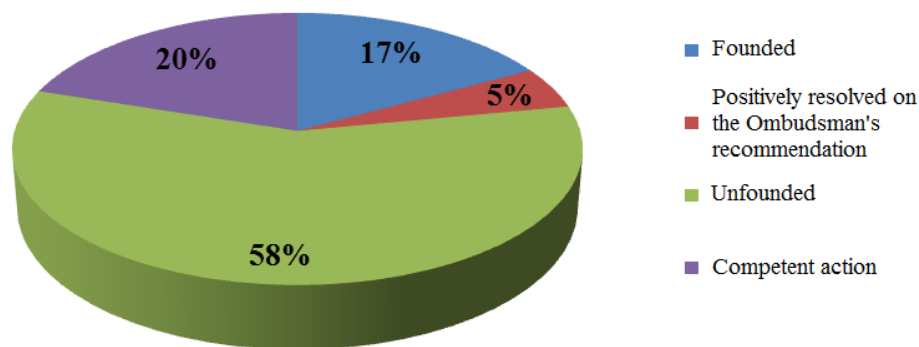
From the start of its operations until 31.12.2014, the Ombudsman **received 200 complaints/requests** and notices related to the operations of financial institutions, 145 of which were completed, while others are still being processed or pending in various stages. The Ombudsman has kept records of all submitted user complaints/requests, the reasons for disputes, proceedings conducted, proposals and issued guidelines and recommendations, as well as individual records of customer data.



Completed procedures are as follows:

- 24 founded complaints that have been resolved)
- 8 positively resolved (on the Ombudsman's recommendation submitted to the financial institutions)
- 80 unfounded (contractual relationship, non-competence – the complaint should be raised against another institution, court proceedings validly terminated, etc.)
- 29 competent actions (the client did not contact the financial institution)
- 4 proposals for mediation (without the consent of both parties)

Processed Complaints April - December 2014

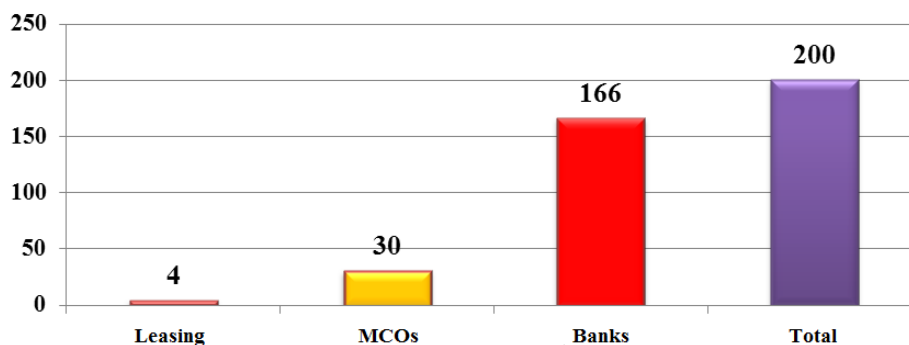


Special note: on the Ombudsman's recommendation, 14 requests for release from the guarantor's obligation have been forwarded to the competent department of the Banking Agency for final decision-making and adoption of a decision upon the request.

Number of complaints per financial institution:

- Banks 166
- Microcredit organisations 30
- Leasing companies 4
- Other 0

Number of Complaints per Financial Institution April - December 2014



Most common complaints/requests:

- Variable interest rate
- Failure to notify or inadequate manner of notifying the user of changes in the conditions
- Fees (warning letters, early settlement of a loan, etc.)
- Guarantors and co-debtors' complaints/requests

Other complaints that are significantly lower in number are mainly related to foreign exchange transactions, interest calculation, operations in the area of payment transactions, document submission (contracts, loan applications, etc.) internal transfer orders for receivables collection by foreign financial institutions.

Previous activities on the review and assessment of user complaints, requests and notices have seen a significant number of complaints whose basis are issues in the area of obligations and legal relationships and which are merit-based in nature, with the competent court already having discussed or made a decision regarding the aforementioned. When it comes to these user complaints/requests, financial institutions have failed to express a willingness to resolve the disputed relationship, respect the issued recommendations and guidelines either before the Ombudsman or in the mediation process, which was to be expected due to the current practice in the country and abroad, as well as due to the fact that the Ombudsman has no jurisdiction to adopt legally binding decisions.

It should be emphasised that the largest number of complaints by guarantors, i.e. persons personally ensuring that the obligations of the principal debtor are met, refer to the assessment of the principal debtor's creditworthiness during the loan approval process, the merits of the claims and forcible collection from these persons by financial institutions in accordance with the provisions of the Law on Guarantor Protection in the Federation of B&H („Official Gazette of the FB&H“, No. 100/13). It is also important to note that there are views expressed in previous court decisions concerning the application of this law to contractual relations concluded before the entry into force of the law and with respect to the issue of retroactive action (retroactivity).

1.2. Reception, Inquiries and Requests of Users of Financial Services

In addition to the aforementioned complaints/requests, which are submitted to the Ombudsman in written form, the Ombudsman has also received inquiries and requests via e-mail, phone calls and directly from users of financial services regarding the rights and obligations with respect to the concluded contract or with respect to using the financial institution's service. In connection with the aforementioned, users are given answers, instructions and opinions, without a formal written proposal to resolve the dispute.

As part of further activities, significant attention is paid to informing users and providers of financial services of their rights and obligations, because users did not understand the provisions of the contract signed with the financial institution. A need to, in a planned and comprehensive manner, raise the awareness and familiarity of users of financial services that are in the process of committing themselves or have already committed themselves as a borrower, guarantor, drawee, co-debtor or pledgor has been identified on the basis of this.

2. COOPERATION IN THE DEVELOPMENT OF A REGULATORY FRAMEWORK AND OTHER INSTITUTIONS

The segment of cooperation of the independent division of the Ombudsman should be viewed in the context of the cooperation realised and developed within institutions with the Banking Agency and regular activities, executive and legislative bodies, regionally and with representatives of international institutions and organisations in B&H and in the context of the cooperation within the international network.

In the reporting period, the Ombudsman, along with the relevant sectors of the Agency, participated in the drafting of secondary legislation (Decisions), namely the Code of Conduct of the Ombudsman for the Banking System in the Federation of B&H, the Decision on Amending the Decision on Conditions and Manner of Customer Complaint Management in Banks, Microcredit Organisations and Leasing Companies, the Decision on Amending the Decision on Conditions and Manner of Handling Guarantors' Requests for Release from Guarantor's Obligation, which the Agency's Board of Directors adopted and which entered into force on 01.08.2014.

Cooperation was also established with the competent Ministry of Finance, to which, with it being the proposer, a request for the opinion on certain provisions of the Law on Protection of Users of Financial Services was submitted, a joint meeting was organised in order to exchange opinions and suggestions on issues that are the subject of disputes between users and financial institutions, in addition to the familiarisation with dilemmas in application, all with a view to the proper implementation of the law.

In November 2014, the Ombudsman participated in the Financial Sector Assessment Program conducted by the World Bank and gave opinions on the preliminary findings and recommendations regarding the policies of the FSAP team.

Since December 2014, the Ombudsman has been a member of the global network of financial ombudsmen – International Network of Financial Services Ombudsman (INFO), and an important aspect of the business operations of the Network is the possibility of professional development and exchange of experience, networking among financial ombudsmen and their staff as well as learning about the work programme.

Following an invitation of the International Finance Corporation (IFC), a member of the World Bank, the Ombudsman participated as a guest speaker in training municipal officials to work with indebted citizens, during which the role and principles on which the independent division operates were presented.

3. EDUCATION

A visit of the Ombudsman for the banking system of Republika Srpska and familiarisation with the scope and operating principles as well as with previous experience in the area of protecting users of financial services.

In the context of the existing Memorandum of Understanding and Cooperation from 05.11.2003, a visit of the Ombudsman and the Agency's representatives to the Office for Consumer Protection of the Croatian National Bank was organised in order to get acquainted with previous work and experiences, legislation in the area of consumer protection, operating methods and financial education.

The Ombudsman also actively participated in the International Conference „Alternative Dispute Resolution – Cooperation of Administration and Justice with the Economy“ in October 2014, organised by the Croatian Chamber of Trades and Crafts, Zagreb, as one of the

leading institutions dealing, among other issues, with mediation and peaceful dispute resolution services and within which the Mediation Centre operates.

4. CONCLUSION

Previous experience in the work of the organisational unit of the Ombudsman, in a short period of operations since its founding, justifies the existence of this function in the Federation of Bosnia and Herzegovina. Interest in the work of the Ombudsman is increasing every day through a number of inquiries and requests of users of financial services that are submitted to the division of the Ombudsman, indicating a more widespread problem of a lack of information and ignorance in terms of the rights and obligations they have in business relationships with a financial institution. The recommendations issued by the Ombudsman on eliminating irregularities in the operations of financial institutions are a statistical indicator that it is necessary to work on the strengthening of protection mechanisms and the application of good business practices by financial institutions in their dealings with customers.