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**ITEM 7 OF THE AGENDA: BANKING OMBUDSMAN – PRACTICAL
CONSIDERATIONS**

Following the questionnaire on Banking Ombudsman circulated by the Secretariat earlier, please find enclosed the summary of the written answers to the questionnaire of 22 Banking Associations (enclosure 1) and a summary table with the basic information on Banking Ombudsman schemes in 27 European countries (enclosure 2).

Enclosures: 2

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Summary on banking Ombudsman.

This summary is made based exclusively on the answers of the 24 Banking Associations to the Secretariat questionnaire on banking Ombudsman.

Austria

The banking Ombudsman scheme is voluntary and private. The scheme is organized in a two-tier way. The Austrian banking industry has established a Joint Conciliation Board ("Gemeinsame Schlichtungsstelle der Österreichischen Kreditwirtschaft") which is responsible for complaints in connection with cross-border credit transfers, transactions involving electronic payment cards, electronic commerce, cross-border payments in euros and distance selling of financial services. The joint conciliation board is a member of the EU FIN-NET. The Joint Conciliation Board is complemented by the Ombudsman of the credit sector institutions (e.g. Ombudsman of the Austrian Bankers' Association).

The banks are funding the scheme following the fixed fee according to a distribution key.

To be fully compliant with the EU Recommendation the Austrian banking sector decided to create the Joint Conciliation Board

The Ombudsman shall publish an annual report which provides general information (number and nature of cases etc.)

Either party is free to call upon the ordinary courts of justice. However, the credit institution will be bound by a conciliation award up to an amount of EUR 4000.

The person appointed as Ombudsman shall have the appropriate legal and professional skills and background. However, he/she must not have worked in a bank or a banking association for the last three years before he/she takes over as Ombudsman.

Disputes are settled by one individual appointed for 3 years by the board of the Credit Section of the Austrian Federal Economic Chamber.

The salary of the Ombudsman is a fixed amount that depends on number of cases processed. The amount of the salary is set by the board of the credit section of the Austrian Federal Economic Chamber.

Belgium

The organization of the Ombudsman scheme is voluntary and private.

The scheme is run by 4 trade organizations of the financial sector – the Belgian Bankers' Association, the Professional Union of Credit Providers, the Belgian Association of Asset managers and Investment Advisers, the Belgian Association of Stock Exchange members.

The funding is private, with a fixed contribution from each of the trade organizations that take part in the scheme, and a contribution which is proportional to the number of complaints.

There was a political pressure to create an official body responsible for the out-of-court settlement of consumer disputes. The Belgian Bankers Association thought it was preferable to create a private scheme.

All decisions taken by the Ombudsman are published, however without the names of the parties involved.

In case one of the parties of the dispute disagrees to the decision of the Ombudsman, the only alternative is to bring the matter before the court.

There is no specific rule as for the requirements to the person appointed as an ombudsman, but it is clear that in order to be appointed, the person must have a number of qualifications: professional experience, knowledge of basic regulations, negotiating skills, etc.

The disputes are settled by Ombudsman, who is appointed for an indefinite number of years. When the complaint is too difficult to solve or if a question of principle is implied, then Ombudsman can submit it to the College of the Ombudsman. This college is chaired by a professional judge and consists of a number of independent professionals and university professors.

The scheme is managed by the Board appointed by the four trade organizations mentioned above. It appoints the Ombudsman and the staff members and manages the scheme, but the Board cannot interfere in the handling of the complaints.

The salary of the Ombudsman is comparable to that of executives in the trade organizations.

Bulgaria

Bulgaria does not have an Ombudsman for the Banking Sector and is not planning to establish it in the foreseeable future.

Cyprus

Cyprus does not have an Ombudsman for the Banking Sector for the moment, but is planning to establish it soon.

The planned Ombudsman would be able to communicate, accept complaints and give decisions in Greek and English, it would cover Member Banks of the Association of Cyprus Commercial Banks and all banking products offered by member banks (such as ATMs, credit / debit cards, loans, bank transfers, financing, etc). However, this is not finalised yet.

Scheme is planned to be voluntary and private and run by the office of the Banking Ombudsman which would be set as an autonomous body. Ombudsman would be funded by the member Banks of the Association.

There is a possibility for setting a maximum amount of 20.000 Euro (but not finalised yet). Decision of the Ombudsman will be binding neither on the bank nor on the customer. If one of the parties rejects the settlement proposed by the Banking Ombudsman, he/she can still appeal to a Court of Justice.

The scheme has been designed in accordance with the European Commission's Recommendation 98/257. The Banking Ombudsman will publish an Annual Report concerning the operations of the office, but the real names will not be released.

The Ombudsman should have an academic background and long-term professional experience in the financial, banking, economic or any other related field. All disputes will be settled by the Ombudsman, who is appointed at the General Meeting of the Office of the Ombudsman for 3 years (renewable).

The governing body of the Scheme will be the Board, which will be composed by 7 independent members recommended as follows:

- a. 2 members from the consumer councils
- b. 1 member from the Ministry of Commerce, Industry and Tourism (Department of consumer protection)
- c. 1 member from the Association of Cyprus Commercial Banks and 1 member from member banks
- d. 1 member from the Central Bank of Cyprus
- e. An independent Chairman

Czech Republic

The Act on the Financial Arbiter took effect on January 1st, 2003.

The scheme covers transfer institutions (banks, building societies) and the issuers of electronic payment instruments; complaints concerning transfers of funds (payment transactions), problems between issuers and holders of electronic payment instruments and cross-border payments (after date of accession of the Czech Republic to the EU).

Contacts with the scheme can be made in Czech and English.

The Financial Arbiter, the Deputy Arbiter in the absence of the Arbiter is running the scheme. The Czech National Bank provides administrative support for the Arbiter's activities to its costs.

The complaint could be made in the language in which the agreement with the institution is written.

The amount of the complaint may not exceed EUR 50.000,-

There are no time limits in bringing the complaint to the scheme.

The average time taken to handle a complaint is two months.

Decisions are binding on the bank but not on consumer.

The service is free of charge.

The Financial Arbiter has been elected by the Chamber of Deputies to harmonize Czech legislation with EU directives (The Act on the Financial Arbiter).

The decisions made by the Ombudsman are released to the public anonymously.

Within 15 days of the date of delivery of the written copy of the decision, the parties may file substantiated objections to the decision, possibly to take the case to court.

Only person who is fully competent to perform legal acts, of good reputation, with sufficient qualifications and experience can be appointed as an Arbiter..

The Arbiter may, in writing, authorise an employee of the Czech National Bank or another person to conduct an inquiry into the matter.

The Financial Arbiter is responsible to the Chamber of Deputies.

The salary of the Arbiter is comparable to regional judges and shall be set by the Chamber of Deputies of the Czech Republic.

Estonia

A bank customer in Estonia can today set a complaint to the Consumer Protection Board (state authority). Estonia does not have a specialized out-of-court settlement body for financial services in the moment, but a draft document is in the process. According to this draft document:

- * this body will be established at FSA. It will be statutory and funded by the providers of financial services mainly according to the number of cases+ a fixed fee paid by all the service providers on different bases (for example the banks' fixed fee is dependant on the amount of the private customers).

- * the scheme will cover complaints set by consumers who are natural persons. The complaint is accepted in case the consumer has turned beforehand to the service provider

- * it will cover all financial services with a certain max limit (not agreed in the moment) except the claims connected with: the pricing of services, the refusal of granting loans, limits of loans etc.

- * decision will generally be made paper-based and by 1 individual elected for that certain case from a list of judges (ca 30 individuals approved by the Board). In more complicated disputes the decision may be made by a body consisting of 3 individuals. Under certain circumstances the hearing will take place. The parties may use the expertise of experts and legal representatives, the cost of their services will be covered by the party who has involved them.

- * decision will be binding unless the parties involved turn to court within 30 days of the date the decision has been made
- * working language - Estonian. There will be a certain formulary to be completed by the complainant
- * the body shall be governed by a board consisting of representatives from the central bank, FSA, Consumer Protection Board and the representative bodies of financial services providers
- * technical assistance needed will be provided by FSA
- * there is so called registration fee (10 EUR) to be paid by the complainant before the proceedings are effected and which will be returned to the complainant if the decision is made in his favor
- * the decisions will be made public but without the data that could make it possible to identify the parties

Finland

There is an information on the Consumer Complaint Board on the FBE MemberNet, but in Finland also the Advisory Office for Bank Customers (founded in 1998), which is a counselling authority, exists

The organization of the Ombudsman scheme is voluntary and private, founded by the National Consumer Administration Finland, the Financial Supervision Authority and the Finnish Bankers' Association.

The funding of the scheme is private, by the Finnish Bankers' Association.

The main arguments in establishing the scheme were to provide to the bank customers a faster and easier way to have advice in banking business and to promote mutual trust between the banks and their customers, as well as to develop day-to-day banking practices through voluntary cooperation.

Decisions of the Ombudsman are not released to the public.

The party may take the case to the court which makes the judicial decisions. The case may also be taken to the Consumer Complaint Board, the decisions of which have not however a judicial nature.

No special requirements to the person appointed as an Ombudsman, but in practice they have master's degree in law.

Simple cases are settled by individuals; more complicated ones by a group of persons. Normally there will be 4 individuals; banks appoint 2 of them, the Financial Supervision Authority appoints 1 person and the Consumer Authority also 1 person. Formal appointment is done by the Board of Advisory office.

The governing body of the scheme is the Board, which is appointed by the interested parties - the Financial Supervision Authority, the Finnish Bankers' Association and the Consumer Authority.

The Ombudsman has a fixed salary that is comparable to the salary of solicitors.

Germany

The banking Ombudsman scheme is voluntary and private, run and funded by the Association of German Banks.

The Ombudsman proceedings are free of charge to the customers, who merely have to cover their own costs (e.g. postage, telephone expenses).

The Ombudsman scheme was set up by the Association (July 1992) as the private commercial banks wanted to offer their customers a special service as part of their overall consumer policy concept.

All customer complaints are handled confidentially. Decisions may be reviewed – anonymously – in the Annual Report.

The Ombudsman's decision is – where the amount involved in the dispute is up to 5.000 € - binding to the bank but not to the customer. If the customer does not accept the

Ombudsman's decision he can – even after the decision has been announced – pursue the matter further before a court of law. The bank only does likewise if the amount involved is more than 5.000 €.

The Ombudsman must be qualified to hold judicial office. He must not have been employed by either the Association or a bank during the last three years prior to taking up office.

The disputes are settled by an individual, who is appointed by the Board of the Association on the recommendation of the management for a term of three years. He may be re-appointed.

The Ombudsman may only be removed before expiry of his term of office if there are facts which indicate that he will no longer be able to exercise his office independently, if he is prevented not only temporarily from exercising his office, or for similar good cause. In his capacity as conciliator, the Ombudsman is independent and not bound by instructions. The salary of the Ombudsman is a fixed amount/adequate allowance.

Greece

The banking Ombudsman scheme is voluntary and private, run by the Hellenic Bank Association. Scheme has private funding: the scheme is funded by the Hellenic Bank Association. Its budget is approved by the General Assembly of the Hellenic Bank Association upon relevant proposal of the Board of Directors. The General Assembly also defines the member – banks contributions to the scheme's budget.

Issues such as ensuring operational effectiveness of the Banking Ombudsman scheme as well as conformity to the principles set out in the 98/257/EC Commission Recommendation were the main arguments when deciding how, by whom and within which institution to create the body responsible for the out-of-court settlement of consumer disputes.

The anonymity of the parties to a dispute is safeguarded when publishing case-examples in the Annual Report of the Banking Ombudsman scheme.

Either party may bring an action before the courts in case one of them disagrees with the decision of the Ombudsman.

The relevant requirements of the 98/257/EC Recommendation which guarantee the independence and effectiveness of the Banking Ombudsman scheme (i.e. the person appointed possesses the experience and competence required to carry out his function etc) are met by the person appointed as an Ombudsman.

Disputes are settled by an individual. The Banking Ombudsman is elected by the General Assembly of the Hellenic Bank Association by a ¾ majority of the total votes, upon relevant proposal of its Board of Directors for a 3 years term of office. The Banking Ombudsman may be re-elected.

The Banking Ombudsman is an independent authority within the Hellenic Bank Association, its operational and financial independence been guaranteed by the General Assembly of the Hellenic Bank Association. The General Assembly of the Hellenic Bank Association elects the Banking Ombudsman and approves the Terms of Reference and the budget of the scheme.

The Ombudsman's salary is a fixed amount which forms part of the budget of the scheme which is approved by the General Assembly of the Hellenic Bank Association upon relevant proposal of its Board of Directors.

Ireland

The banking Ombudsman scheme is voluntary and private, run by the Institutions through a Board and Independent Council. Scheme is privately funded and levy depends on the number of personal customers.

Legislation had been introduced which enabled the Central Bank to introduce a statutory scheme. The Bank agreed to defer implementation of statutory scheme if a voluntary scheme was introduced.

The Ombudsman publishes a digest of cases covering all cases examined. He also published an annual report which includes representative case histories. Neither the case histories nor the digest discloses the names of either party.

The complainant retains all his/her legal rights. If the complainant does not agree with the decision of the Ombudsman, it is possible to pursue the matter through legal channels. The member institutions of the Scheme have agreed in advance to be bound by rulings of the Ombudsman.

Legal background is necessary to the person to be appointed as an Ombudsman. The Ombudsman is appointed by an independent Council for a renewable period of five years.

The scheme comprises a Board and a Council. The Council has a majority of independent members and an independent Chairman. The initial Council was nominated by the institutions but replacements of independent Council members are a matter for Council by co-option. Council is responsible for ensuring the independence of the Scheme. They publish the Annual Report and recommend the Budget to the Board for approval. They may also recommend changes in the Terms of Reference of the Ombudsman. The Ombudsman is appointed by the Council and he reports to the Chairman of the Council.

The Board comprises of nominees of the institutions. It approves the budget and changes to the Terms of Reference.

The salary of the Ombudsman is negotiable and is reviewed annually by Council.

Italy

The Ombudsman scheme, created in 1993 at the initiative of the Italian banking Association (ABI), is based on private and voluntary basis Agreement between the ABI members (banks and financial intermediaries).

The banking Ombudsman is composed of a Board of five individuals: the chairman, appointed by the Governor of the Bank of Italy, two members nominated by the chairman of the ABI, one member nominated by the National Lawyers Council and one nominated by the chairman of the National Council of Graduates in Economics and Commerce.

The banking Ombudsman is funded by ABI who shares expensed among its members. The services offered to the bank's customers (only private consumers) are free of charge.

The banking Ombudsman was created in 1993 at the initiative of ABI in an endeavour to improve relations between banks and their customers.

The most important decisions made by the Ombudsman are released to the public in an annual report without the names of the parties involved.

There is no procedure of challenging the decisions of the Ombudsman. However, while the Ombudsman decisions are binding for banks, the customers could go to a competent Court of law.

The banking Ombudsman is a Board of five highly qualified individuals with abilities, experience and competence in the fields of law, economics and banking. These experts are appointed for a three year term, which can be prolonged at the end of the period. They have not been working during the last three years for a bank or the ABI.

The disputes are settled by the Board. The Board meetings are held two or three times a month.

The scheme is governed by the Board.

The members of the scheme do not receive a salary, but only an attendance fee for each meeting.

Latvia

The banking Ombudsman is a public and statutory scheme for the members of the Association of Latvian Commercial Banks. Ombudsman can be contacted and complaint can be made in Latvian, Russian or English, but the decision will be given in Latvian.

Limit to the amount of the complaint is 50.000 EUR.

Rules shall only regulate reviewing of the complaints bearing all of the below-listed features:

- The complaint has been lodged by a customer which is neither a credit institution nor a financial institution;
- The complaint relates to clearance remittances or transactions involving electronic payment;
- The complaint relates to action of a credit institution registered in Latvia;
- The amount of transaction (or total amount of obviously related series of transactions) to which the complaint relates does not exceed EUR 50'000;
- The complaint does not involve any document falsification;
- The complaint does not involve either substantiation of pricing of credit institutions, granting, canceling or altering of credit limits, terms and conditions of credit limits and similar matters;
- The customer has been applying with similar claim to the concerned credit institution, but no satisfactory reply has been received from the credit institution during a month from submitting (mailing) of the claim;
- No claim on the subject of complaint has been lodged either with the Court or Court of Arbitration;
- The customer has not lodged similar complaint with the Centre for Protection of Consumer Rights;
- The concerned customer has not previously submitted any complaint on the concerned subject matter to the Ombudsman.

The average time taken to handle a complaint is 2 months and decision is not binding.

To lodge a complaint, the applicant shall deposit security in the amount of LVL 15.00. If the Ombudsman satisfies the complaint, fully or partially, the deposited security shall be returned to the applicant.

The decisions made by the Ombudsman are NOT released to the public with the real names of the parties involved.

A party may reject the Ombudsman in case of objective circumstances raising mistrust in his/her impartiality or independence. Petition on rejection of the Ombudsman shall be executed in writing and submitted both to the "The Court of Arbitration of the Association of Latvian Commercial Banks", and the other party. The grounds for rejection shall be subject to substantiation. Should the other party disagree with the rejection, except in case of resignation by the rejected person from handling of the complaint in question, the rejection shall be decided upon by the Association of Commercial Banks of Latvia Court of Arbitration Chairman who shall be entitled to discharge the Ombudsman from reviewing a certain complaint if he/she finds the rejection substantiated.

No special requirements to the person appointed as an Ombudsman.

The disputes are settled by an individual, who shall be appointed by the President of the Association of Latvian Commercial Banks for the period of three years.

The governing body of the scheme is the President of the Association of the Latvian Commercial Banks. The salary of the ombudsman is not depending on the number of cases

processed. The amount of salary is set by President of the Association of the Latvian Commercial Banks and can be comparable to that of judges.

Lithuania

For the moment Lithuania does not have an Ombudsman for the Banking Sector, but is planning to establish it in the foreseeable future.

Luxembourg

The banking Ombudsman is a public statutory scheme (Art. 58 of the Luxembourg law on the financial sector as amended), run by the supervisory authority of the financial sector (CSSF). According to Article 24 of its statute law the CSSF is authorised to cover its operating and staff costs by imposing taxes upon its supervised entities.

Impartiality, independence, technical competence and authority where the main arguments when deciding how, by whom and within which institution to create the body responsible for the out-of-court settlement of consumer disputes.

The decisions made by the Ombudsman are NOT released to the public.

If the parties subsequently inform the CSSF that they cannot or will not reach an amicable settlement, the CSSF informs the customer of the legal action he may take.

The intervention of the CSSF pursuant to Article 58 is always carried out in its capacity as public authority. It aims to find an amicable settlement to the complaints received on the basis of the authority conferred on it by law. As regulatory authority of the financial sector, its knowledge of the rules, standards and practices of the sector is unchallenged.

The Ombudsman is not a physical person, but the supervisory authority is led by civil servants.

The CSSF works under the authority of a Council of seven members appointed by the government. Four of the members are appointed on proposition of the Minister in charge of the financial sector, the other three members are appointed on proposition of the supervised professionals.

Malta

There is no Banking Ombudsman in Malta, and neither are there any plans to establish one. However, the Malta Financial Services Authority (MFSA) has the duty, as the single Regulator for financial services, to appoint a Consumer Complaints Manager. His function will be to investigate complaints from private consumers arising out of or in connection with any financial services transaction, and to refer such cases as may be necessary or appropriate to the Supervisory Council of the Authority for its consideration.

The scheme can be contacted in either of the official languages, i.e. Maltese or English. Every effort will, however, be made to reply to enquiries forwarded in any of the main/ other European languages (e.g. French, German, Italian, etc.).

The scheme covers all financial institutions and all financial products.

The public scheme is run by the Competent Authority, and is therefore statutory in nature.

Though the scheme is funded by the MFSA, plans are underway to introduce supervisory fees – which will probably also cover the cost of running the office of the Consumer Complaints Manager.

There is no specific provision covering language, but the presumption is that complaints/decisions will be in either official language (Maltese or English).

Efforts to accommodate other languages will be made, but it is not envisaged that this will become necessary.

No limits are set on the amount of the complaint.

The relevant procedures state that the Consumer Affairs Manager may dismiss a complaint if:

- He is satisfied that the complainant has not suffered financial loss, material inconvenience or material distress
- He considers the complaint to be frivolous and vexatious
- He considers that the complaint clearly does not have any reasonable prospect of success
- The complaint is about the legitimate exercise of a financial entity's commercial judgement
- The complaint concerns investment performance, except to the extent that there are allegations of negligence
- The complaint concerns a financial entity's decision when exercising discretion under an explicit agreement between the customer and the financial entity, except where there are allegations of negligence or unfair treatment
- The financial entity has already made an offer of compensation which is fair and reasonable in relation to the circumstances alleged by the complainant (and which offer remains open)
- The matter has been dealt with, or is being dealt with, by the courts or an out-of-court dispute resolution process, or is being pursued as a civil claim
- The matter has been dealt with, or is being dealt with, or has been broadcast in the media
- It would be more appropriate for the matter to be dealt with by a court, arbitration or another complaints scheme
- A complainant fails to supply required information
- There are compelling reasons why it is inappropriate for the complaint to be dealt with by the MFSA
- If more than six months have passed since the customer was notified in writing by the financial entity that his complaint was not upheld or if more than twelve months have passed since the customer became aware of the circumstances giving cause to the complaint.

Complaints can only be lodged by private customers, and must first be discussed/ dealt with by the financial institution concerned.

The time required to handle a complaint largely depends on:

- The nature of the complaint/ breach (minor issues can be treated as queries and handled in a relatively short time)
- The level of co-operation between the parties (an amicable solution may be forthcoming early on)
- Possible regulatory considerations (the Consumer Complaints Manager needs to inform and consult with the relevant regulatory unit on issues that may impinge on any regulatory matter).

Since procedures were only officially put in place in the last quarter of 2002, there are no specific records.

The decision is given in the form of a recommendation.

A financial institution or a customer may or may not accept the recommendation of the MFSA, and the MFSA cannot enforce a recommendation on either party.

Recourse to the Authority does not have the effect of depriving the consumer or the financial institution of the right to bring an action before the courts or any entity established at law for the settlement of the complaint – should either party refuse to accept the recommendation.

The service offered by the Consumer Complaints Manager is free to customers. There are also no direct charges to the financial institution involved in the case.

Despite the efforts made by the Malta Bankers' Association to discuss out-of-court settlement procedures, the Competent Authority and the legislators finalised matters independently.

Information held by the Consumer Complaints Manager is not freely available. Any examples/ decisions included in reports are sanitised – and do not include the names of the parties involved.

A recommendation made by the Authority is not binding, and any of the parties involved retains the right to bring an action before the courts or any entity established at law for the settlement of the complaint.

The Consumer Complaints Manager is appointed by the MFSA Board of Governors. The relevant Act does not specify any qualifications or special requirements.

The complaint may either be processed in its entirety by the Consumer Complaints Manager (who would be required to liaise and consult with the respective regulatory unit prior to replying to the complainant) or referred to the Supervisory Council for its consideration

The Consumer Complaints Manager is appointed by the Authority, while the Supervisory Council is made up of the Director General and the Directors of each of the Regulatory Units. The remuneration (which in all likelihood is a fixed salary) for the Consumer Complaints Manager is set by the MFSA.

Norway

The banking Ombudsman is a private statutory scheme. This is a joint scheme based on an agreement between the Norwegian Financial Services Association, the Association of Savings Banks in Norway, the Association of Norwegian Finance Houses, The Norwegian Mutual Fund Association and the Consumer Council. The scheme is funded by the industry.

The main arguments when deciding to create the joint scheme based Complaints Board, was a request from the Consumer Council. The Consumer Council wanted to create a simple body based on voluntary principles and agreements (out-of-court settlement).

Everyone dealing with the complaint is bound to confidentiality.

As long as a complaint is being dealt with by the Complaints Board, neither party can bring the case before the ordinary court. Decisions (statements) made by the Board are advisory for the parties. If the statements are not in favour of the banks and finance institution, and the institution does not intend to be guided by the statement of the Board, the institution has to submit a report specifying the reasons for refusal within a period of three weeks. A case that has been tried on its merits by the Board may be brought directly before the ordinary court.

The chairman of the Complaints Boards must have a law degree and the same qualification as required for the judges of the High Court.

The Complaints Boards are to be comprised of a chairman and four members, two from the consumer side and two from the associations. The Consumer Council appoints two members. The other party (associations) appoints members and deputies at their own discretion (in particular bank employees with a law degree). All appointments made in accordance with regulation apply for a period of two years.

The secretariat has an Executive Committee consisting of four members. The four associations (parties to agreement) nominate one member each - in particular employees of the associations. The Executive Committee elects its own chairman for a period of office of one year. The duties of the Executive Committee are to organize the secretariat, to appoint the manager, to make all necessary preparations for its operation, to present budget proposals and to submit the accounts to the associations for approval/adoption. The Executive Committee specifies the necessary guidelines for the activity of the secretariat, but can not make any statement relating to the individual cases.

The salary (remuneration) of the chairman and the other members of the Complaints Boards is covered by the associations, and it is a fixed amount.

Poland

The Banking Ombudsman scheme in Poland covers members of the Polish Bank Association and 11 smaller cooperative Banks, which offered a declaration of submission to Ombudsman rulings and actions. With regard to the products scheme covers all financial claims not executed or executed improperly by bank or other activities on client interest. The object of the Ombudsman proceedings does not include cases connected with the State Treasury services, in particular credits subsidized by the State.

Consumers can contact the scheme, make a complaint and receive a decision in polish.

The scheme was established in March 2002 by the Polish Bank Association (the chamber of commerce of the Polish private banking industry). It is a self-regulatory venture. When working out a verdict, the Ombudsman acts in accordance with the Rules of the Procedure for the Banking Ombudsman adopted in 2001 by the General Assembly of the polish BA.

The Ombudsman of the polish Banks is an independent initiative of Polish BA. One of the reasons of this situation is the lack of some general or overriding law concerning this issue. The organizational and administrative aspects of the Ombudsman activities (Ombudsman Office) are run by the polish BA. The scheme is funded by the member banks. The general principle of covering costs are the number of complains concerning a given bank.

The maximum limit of the complaint is 8.000 PLN (ca. ~1.900 Eur). The value of the dispute does not include interest and other costs, and if there are a number of disputes their values are summed.

The Ombudsman considers only cases involving individual, private consumers, meant as a natural person making transaction with the bank in purpose not strictly connected to the economic activity.

There are no special forms to be used or procedure to be followed. A customer complaint should be submitted in writing, first to the local branch of the bank concerned. If no satisfactory solution can be found, the customer should write to the ombudsman, giving a clear description of the complaint and a copy of all documentation and all correspondence between him/her and a bank. The Ombudsman may refuse a request, if it is incomprehensible and though appeals still stays like this, or recognition of case need a procedure with witnesses and experts, what in Ombudsman opinion is possible in judicial prosecution.

The Ombudsman will reject the resolution if:

- the dispute between the same parties is on the State Court, Court of Conciliation or has already been judged,
- the conclusion of dispute belongs to the Court of Conciliation.

The average time to handle a complaint is 6-7 weeks.

The ruling of the Ombudsman is binding for the bank. The customer is free to put the case before the State Court if unsatisfied with the ruling.

The initial fee of 50 PLN (12 Eur) is required with an application. In case the value of dispute is lower than 50 PLN a fee is set to 20 PLN (5 Eur). The Ombudsman does not act unless the fee is paid. The fee will be returned to the customer if the Ombudsman rules in his/her favour.

The basis for Polish BA work on this issue were the general rules described by the European Commission's recommendation No. 98/257/EC and first of all the German experience (Ombudsman der privaten Banken).

Generally neither the Ombudsman nor the Polish BA releases any information to public about the individual decisions taken by the Ombudsman. The reports are written on the basis of one year statistical data.

The Ombudsman should be a lawyer by profession. This person should have at least 7 years professional experience as a judge or as a solicitor and a Polish citizen, too. It is forbidden to this person to work simultaneously for a bank or any other company.

The disputes are settled by an individual (Ombudsman). The person is appointed by the Board of the Polish BA. The term of mandate for the Ombudsman is 4 years. The Ombudsman can be dismissed only in two specific cases:

- long illness (and the inability to fulfil his/her duties);
- valid conviction in criminal case.

The current banking Ombudsman is Ms. Katarzyna Marczyńska, former judge with the considerable experience in cases concerning the banking. The Ombudsman works completely independently from any bodies of the Polish BA.
The salary of the Ombudsman is a fixed amount.

Portugal

There is no banking Ombudsman in Portugal. Several banks have voluntarily set up internal customer services which deal with customer complaints.

Russia

For the moment Russia does not have an Ombudsman for the Banking Sector, but is planning to establish it in the foreseeable future.

Slovenia

In the Slovenian banking system an Ombudsman scheme does not exist at the moment. The Bank Association of Slovenia have in active the special working group which is responsible to prepare the rules and the proposal how to organize the banking ombudsman scheme.

This project is in the context with the new article of the Banking law, which will be put in to the effect in autumn this year.

We plan to conclude this task until the end of this year.

Spain

The recent law dated 22 November 2002 on Reform Measures of the Financial System has developed "The institution for the protection of clients of Financial Services" with the existence of a Commissioner for the protection of clients of Bank Services, pending the corresponding regulation. However the answers to the questionnaire refer to the new Ombudsman person (Commissioner) who has already been established by the mentioned law that is scheduled to come in force within a few months.

The Banking Ombudsman is a statutory and public scheme. The Ombudsman will be assigned to the Bank of Spain and publicly funded.

The decision to assign the Ombudsman to the Bank of Spain is reasonable because it is responsible for the bank supervision in the country and, therefore, it is logical that the Bank

of Spain should undertake these responsibilities for the purpose of assuring that the banks proceed correctly when offering financial services to their clients.

The Bank of Spain publishes an annual report which summarizes the most significant decision made stating the name of the bank but not the name of the person involved.

There is always a possibility of taking the case to the court in case one of the parties of the dispute disagrees with the decision of the Ombudsman.

The Ombudsman should be someone of renown status in the economic and financial spheres with, at least, ten years of professional experience.

The disputes would be settled by one individual who would be appointed by the Ministry of Economy, after hearing the Governor of the Bank of Spain. His/her term of mandate would be for a period of five years with no possibility for renewal.

The Ombudsman will act in accordance to the principles of independence and autonomy as to the criteria and guidelines to be followed in each case.

Sweden

Swedish Banking Association does not have an Ombudsman for the Banking Sector and is not planning to establish it in the foreseeable future.

Turkey

A general framework of Ombudsman has not been passed through the parliament yet.

The Banks Association of Turkey has prepared a draft scheme on the functioning of Banking Ombudsman as a committee under the structure of the Association. This draft scheme has not been approved yet by the Board of Directors, but the Association aims to put it in action until the end of this year.

United Kingdom

The organization of the Ombudsman scheme is statutory and public.

The scheme is run by the Financial Ombudsman Service.

The funding is private: there is a levy on each bank, based on the number of customer accounts held by the bank (£0.0125 per account), subject to a minimum of £200 per bank per annum, plus a case fee of £360 for every case considered by the Ombudsman. The case fee is paid by the bank.

The Banking Ombudsman scheme was set up in the mid 1980s and was voluntary and non-statutory. The Financial Ombudsman Service brought together all the sectoral financial services ombudsman schemes, including the Banking Ombudsman, under a single statutory scheme, the Financial Ombudsman Service (FOS). The FOS formally opened for business in November 2001, under the Financial Services and Markets Act 2000.

A digest of cases is published, but this does not reveal the names of the parties.

Decisions of the Ombudsman are binding on the firm, but not on the customer (this means the customer is free to seek further redress via the courts) and there is no right of appeal.

The ombudsman has to be 'an independent person'. There are no formal qualifications, but in practice, and to be credible, the ombudsman must be someone of experience, integrity and commanding of respect. In practice, ombudsman has a legal background. The principal Ombudsman is appointed on a fixed term (three year) renewable contract.

Cases are decided by the Ombudsman, who is an individual. There are three banking ombudsmen and one Principal Ombudsman for Banking. In practice, particularly in regard to difficult cases, they do confer, although they are under no obligation to do so. The

Ombudsmen are appointed by the FOS Board.

The Board of the Financial Ombudsman Service is a governing body of the scheme. Details of membership etc can be found at <http://www.financial-ombudsman.org.uk/about/board.html>

The Board is appointed by the Financial Services Authority. Powers are delegated to the Board by the Financial Services Authority: see the memorandum of understanding at <http://www.financial-ombudsman.org.uk/about/MOU-July-2002.doc>

The salary is a fixed amount, in setting the salary, the Board is not obliged to have regard to external comparators, such as judges.

	Existence of the Ombudsman in Banking	Contact languages	Coverage of the scheme (Institutions)	Coverage of the scheme (Products)	The organization of the scheme	Who is running the scheme	Who is funding the scheme	Languages the complaint can be made	Languages the decision can be given	Limits to the amount of the complaint	Time limits in bringing complaint to the scheme	The average time to handle a complaint	Nature of the decision	Charges
Austria	Yes	GER ENG	Austrian credit institutions		Private / voluntary	Austrian banking industry	Banks	GER ENG	GER	No	No		Binding up to 4,000 Eur for the participating credit institutions	No
Belgium	Yes	FRA NED ENG	Member banks of the Belgian BA	All financial products offered by the member institutions	Private / voluntary	4 Trade organizations of the sector	Trade organizations involved	FRA NED ENG	FRA NED ENG	No		8 weeks	Not binding	No
Bulgaria	No													
Cyprus	Co- ming soon	GRE ENG	Member banks of the Cyprus BA	All financial products offered by the member institutions (to be finalised)	Private / voluntary	Office of the Banking Ombudsman	Member Banks of the Association	GRE ENG	GRE ENG	20.000 Eur (to be finalised)	To be decided		Not binding	No
Czech Republic	Yes	CZE ENG	Banks, building societies and the issuers of electronic payment instruments.	Payment transactions, electronic payment instruments	Official	The financial Arbiter	The Czech National Bank	Lang. of the agreement	Lang. of the agreement	50.000 Eur	No	2 month	Binding on Bank, not binding on customer	No
Denmark	Yes	DEN ENG	All banks and savings banks	All financial products offered by banks and savings banks	Privately / statutory	Board of Danish Bankers and Board of Danish Consumers	Board of Danish Bankers	DEN ENG GER	DEN	No	No	4-5 month	Binding on the Bank if it does not reject it within 4 weeks	Fee 100 DKK (13 Eur) - returned if the decision is in favour of complainant
The Danish Banking complaint Board														
The Danish Mortgage credit complaint Board														
		DEN ENG	All mortgage credit institutions	Mortgages	Privately / statutory	Association of Danish Mortgage Banks and Board of Danish Consumers	Mortgage credit institutions	DEN ENG	DEN	No	No	3-5 month	Not binding	Fee 100 DKK (13 Eur) - returned if the decision is in favour of complainant

	Existence of the Ombudsman in Banking	Contact languages	Coverage of the scheme (Institutions)	Coverage of the scheme (Products)	The organization of the scheme	Who is running the scheme	Who is funding the scheme	Languages the complaint can be made	Languages the decision can be given	Limits to the amount of the complaint	Time limits in bringing complaint to the scheme	The average time to handle a complaint	Nature of the decision	Charges
Finland	Yes	FIN SWE ENG	All financial institutions	All financial products except securities and investment services	Public / statutory	Complaint Board is an independent public organization	Public funding	FIN SWE ENG	FIN SWE ENG	No	Six month from the last contact with supplier	10 month	Recommendation, not binding	No
France	Yes	FRA	Member companies of the ASF which have joined the scheme	All financial products offered by the member institutions	Private / voluntary	Independent ombudsman	The Association (ASF)	FRA ENG	FRA	No	No	2 month	Not binding	No
Germany	Yes	GER ENG FRA	Members of the German BA	All financial products offered by the participating institutions	Private / voluntary	German BA	German BA	GER ENG FRA	GER ENG FRA	No	No	3-6 month	Binding on the Bank if the amount does not exceed 5,000 Eur	No
Private Banks Ombudsman (BdB)														
Ombudsman scheme for Public Banks														
Ombudsman of the Deutsche Bundesbank														
		GER ENG	Members of the Association which have joined the scheme	All cross-border transfers	Voluntary	Ombudsman of the German Association of Public Banks	German Association of Public Banks	GER ENG	GER ENG	No	No	3-5 month	Not binding	No
		GER ENG	All institutions which do not participate in other Ombudsman scheme	All transfers, improper use of payment cards and their data	Public	Arbitration department of the Deutsche Bundesbank	The Deutsche Bundesbank. Institution involved pays 200 Eur fee.	GER ENG	GER ENG	No	No	3-5 month	Not binding, parties have 6 weeks to declare whether they accept the proposal	No
		GER ENG FRA	All members of the Association of Private Mortgage Banks	All financial products offered by the participating institutions	Private / voluntary	The Association of Private Mortgage Banks	The Association of Private Mortgage Banks	GER ENG FRA	GER ENG FRA	No	No	1-2 month	Binding on Mortgage Bank, if the amount does not exceed 5,000 Eur	No

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Cooperative Banks Ombudsman		GER ENG	All members of the Association which have joined the scheme	All financial products offered by the participating institutions	Private / voluntary	The Cooperative Banks Association + contributions from involved banks	The Cooperative Banks Association	GER ENG	GER ENG	No	No	3-6 month	Not binding	No
Greece	Yes	GRE ENG	All member banks of the Greek BA	All financial products offered by the member institutions	Private / voluntary	Independent ombudsman, elected by the general assembly of the Greek BA	Greek BA	GRE ENG	GRE ENG	No	One year after the occurrence of the action that caused complaint		If conciliation can not be reached, Ombudsman issues recommendation	No
Iceland	Yes	ICE ENG	Members of the numerous professional Associations	All financial products offered by the participating institutions	Private / public	Independent organization	Financial Supervision Authority + institutions members of the Associations participating in scheme	ICE ENG	ICE	No	One year after the occurrence of the action that caused complaint	8 weeks	In principle binding recommendation, except for important amounts	From 5,000-30,000 IKR
Ireland	Yes	ENG	All credit institutions which have joined the scheme	All financial products offered by the participating institutions	Private / voluntary	Institutions through a Board and Independent Council	Credit institutions involved	ENG	ENG	30,000 IPD or 50,000 Eur	6 years	3.5 month	Binding on the credit institution	No
Italy	Yes	ITA ENG FRA SPA	All banks operating in Italy	All financial products offered by the participating institutions	Private / voluntary	Ombudsman is an autonomous, self-governing entity	Italian BA	ITA ENG FRA SPA	ITA	5,000 EUR	10 years	3 month	Binding on the credit institution	No

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Latvia	Yes	LAT RUS ENG	All members of the Latvian BA	Specific list of the features	Public / statutory	Latvian BA		LAT RUS ENG	LAT	50.000 Eur	No	2 month	Binding, but petition on rejection possible	Deposit of LVL 15 (25 Eur), which will be reimbursed in case of a positive decision.
Lithuania	No	Lithuania is planning to establish the banking Ombudsman it in the foreseeable future.												
Luxembourg	Yes	FRA ENG GER	All financial institutions supervised by the supervisory authority (CSSF)	All financial products	Public / statutory	The Supervisory Authority for the finance sector (CSSF)	CSSF by charging its supervised entities	FRA ENG GER	FRA ENG GER	No	No	3-6 month	Not binding	No
Malta	No*	MLT ENG	All financial institutions	All financial products	Public / statutory	Competent Authority	Malta Financial Services Authority	MLT ENG	MLT ENG	No	List of the features	NA	Not binding	No
Netherlands	Yes	NED	All members of the Dutch BA; Suppliers of mortgage financing who subscribe the code	All financial products except equities, options, forwards and not credit registration	Private / statutory	General foundation for dispute settlements		NED	NED	100,000 NLG	Committee decides; 15 month for mortgage disputes	6.5 month	Binding, possibility to bring to court within 2 month for marginal check	75 NLG

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Norway	Yes	NOR SWE ENG DAN	All Banks, finance houses, Mortgage companies and mutual fund investment companies	All financial products offered by the participating institutions	Private / statutory	Based on the agreement between professional associations of the industry and the Consumer Council	Industry	NOR SWE ENG DAN	NOR	No	No	3-4 month	Not binding	No
Poland	Yes	POL	Members of the Polish Bank Association and 11 smaller cooperative Banks	All financial products, except those connected with the State Treasury services	Private / voluntary	Polish Bank Association	Member Banks	POL	POL	8,000 PLN (1.900 EUR)	No	6-7 weeks	Binding for the Bank, not binding for the consumer	50 PLN (12 EUR), returned in case of positive decision
Portugal	Yes	POR FRA ENG	All financial institutions which have joined the scheme	Some financial products	Private / voluntary	A director and administrative staff, a magistrate at the arbitral tribunal	Government + City of Lisbon	POR FRA ENG	POR FRA ENG	5,000 EUR	30 days	1 month	Binding	No, but parties undertake to bear charges for expert opinions, if necessary
Russia	No	Russia is planning to establish the banking Ombudsman in the foreseeable future.												
Spain	Yes	All most common languages of the EU	All credit institutions established in Spain	All financial products offered by the credit institutions	Public / statutory	Supervisory authority, Bank of Spain	Public funding	All most common languages of the EU	SPA	No	5 years	Max 3 month	Not binding	No
Slovenia	No	The Bank Association of Slovenia have in active the special working group which is responsible to prepare the rules and the proposal how to organize the banking ombudsman scheme. This project is planned to conclude until the end of this year.												

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Sweden	Yes	SWE ENG	All financial institutions	All financial products offered by financial institutions	Public / statutory	Independent public body	Public funding	SWE	SWE	Min 1,500 SEK (137 Eur)	6 month	5 month	Not binding	No
Turkey	No	A general framework of Ombudsman has not been passed through the parliament yet. This draft scheme has not been approved yet by the Board of Directors, but the Association aims to put it in action until the end of this year.												
UK	Yes	Any EU language	All banks, mortgage banks, credit unions, electronic money institutions, insurance companies, securities/investment/pension companies	Banking/loans/credit cards; mortgages; insurance; securities/investments; pensions	Public / statutory	The Financial Ombudsman Service	By a levy on the relevant financial institutions	Any EU language	ENG	100,000 GBP	6 month - 6 years	3-12 month	Binding on the institution	No

* - There is no Banking Ombudsman in Malta. However, the Malta Financial Services Authority (MFSA) has the duty, as the single Regulator for financial services, to appoint a Consumer Complaints Manager. All further references are made to the MFSA Consumer Complaints Manager.