

R E P O R T

on activities of the organizational unit of the Ombudsman for the banking system of Republika Srpska for period from 1 January to 31 December 2018

1. Introduction

The basic tasks of the organizational unit of the Ombudsman for the banking system of Republika Srpska (hereinafter: Ombudsman) are defined by the Law on the Banking Agency of Republika Srpska ("Official Gazette of Republika Srpska", No.: 59/13 and 04/17) and the Banking Law of Republika Srpska ("Official Gazette of Republika Srpska", No.: 04/17 and 19/18) for the purpose of promoting and protecting the rights and interests of private individuals who are users of financial services.

On-going tasks stipulated by law and other regulation are carried out within the framework of the existing personnel, material and administrative assumptions, and the structure of the organizational unit comprises of two employees.

From the previous reporting period, the trend was maintained in terms of the greater complexity of procedures upon users' notifications and complaints, in matters that are not comprehensively regulated by existing regulations or exceed the scope of authority, as well as due to the greater complexity of contractual relationships and provisions prepared by financial organizations.

In 2018, a significant number of extraordinary tasks were carried out, especially in terms of the cooperation with other authorities and institutions and international organizations, in particular, obligations in the preparation of answers to the questions of the European Commission regarding the membership of BiH in the EU, obligations towards the INFO Network, and part of the tasks within the framework of the Agency's powers is also carried out in cooperation with other organizational parts.

From the beginning of the activities of the organizational unit until 31 December 2018, more than 800 user complaints and more than 1,200 inquiries, requests and other submissions were received to which reasoned answers were provided.

2. Complaints, inquiries and other requests of financial service users

2.1. Resolution of complaints

In the period from 1 January to 31 December 2018, the organizational unit of Ombudsman received 72 complaints and notifications regarding disputes arising in connection with the conduct of financial organizations or general requests to dispute certain issues in individual relations between users and providers of financial services. According to the processed data, in 2018, a decrease in the number of received complaints was recorded, along with the appearance of a certain number of newly created disputed relationships. 16 complaints are being processed in different stages of the procedure.

Out of 74 completed procedures upon users' complaints and notifications, including 24 procedures that were initiated in 2017, in the observed reporting period:

24 founded complaints were positively resolved in favor of the users

11 complaints were unfounded

32 complaints – for which explained answers were given to users, with opinions and instructions regarding the application of valid substantive and procedural regulations and necessary further procedures (5 complaints were forwarded to the Banking Agency of the Federation of BiH for processing).

3 complaints were not accepted due to the irregularity of the submission.

In case of 12 complaints, appropriate information on the subject of the dispute was submitted to other organizational units of the Agency for further action.

In one complaint procedure, a settlement between the user and the provider of financial services was reached through mediation, while solutions in other cases in which disputed relationships were discussed were reached in the previous procedure, without the need to hold mediation meetings.

Number of complaints for acting of financial service providers

Financial service providers	Number of inquiries
Banks	63 (85%)
Microcredit organizations	10 (14%)
Leasing providers	1 (1%)
Saving-credit organization	0 (0%)
Other	0 (0%)
TOTAL	74 (100%)

b) Number of complaints by financial service type

Financial service type	Number of inquiries and percentage
Loans	42 (57%)
Deposit operations	4 (6%)
Payment transactions	15 (20%)
Electronic payment instruments	7 (9%)
Leasing	1 (1%)
Other	5 (7%)
TOTAL	74 (100%)

Inquiries for acting of financial service providers							
	2012	2013	2014	2015	2016	2017	2018
Banks	128	151	77	93	75	102	63
MCO	11	13	17	9	4	8	10
Leasing providers				1			1
Saving credit							
Other		2	2	2	1		
Total	139	166	96	105	80	110	74

Inquiries by financial service type							
	2012	2013	2014	2015	2016	2017	2018
Loans	97	116	64	60	48	52	43
Deposit operations	6	2	3	11	7	7	4
Payment transactions	9	19	12	4	9	37	15
Electronic payment instruments	13	11	9	11	8	8	7
Leasing				1			1
Other	14	12	8	18	8	6	4
Total	139	166	96	105	80	110	74

Table 1

a) **Credit operations.** Also in the observed period, according to the data from Table 1, the largest number of users' complaints related to credit transactions. And in this period, the subject of disputed relations, apart from the administrative area of regulation of the banking sector of Srpska, was to a significant extent related to the application of other material regulations, in which respect there are limited opportunities to discuss such relations.

Most of the complaints related to possible irregularities in the calculations of claims of financial organizations during the contractual relationship or after the fulfillment or termination of the contract, especially due to irregularities in the calculation of default or regular interest and incurred costs and neglect of the legal consequences of the occurrence of certain facts. In connection with the described disputed relationship, 9 objections were considered. The number of complaints related to irregularities and the consequences of recording the classification of the user's indebtedness in the Central Credit Register by financial organizations has increased, and three pieces of information have been submitted for consideration to the competent organizational parts of the Agency. In the proceedings conducted on the occasion of other disputed relationships in the group of credit transactions and in this period, individual complaints related to the issues of refusal to hand over documentation of the credit file or data on the status of the loan, transparency of operations and inadequate information of the user about the legal transaction and the rights and obligations at the time of conclusion and in the course of execution and giving mutual oral statements and qualifications, the validity of the assignment of claims and the realization of the right to early repayment of the loan. Complaints regarding the validity of individual clauses on the variability of the nominal interest rate on loans and the regularity of interest rate calculations by financial service providers during the contractual relationship were minimized, and in the reporting period, 1 complaint procedure was completed which had as the subject the mentioned issues and which was resolved positively for the user and related to the actions of the bank from Republika Srpska. Users were given reasoned answers regarding their rights and obligations, or recommendations to financial organizations for adequate treatment of users whose complaints are justified. Part of the complaint still relates to the rights of users in the enforcement procedure initiated by financial organizations to settle their claims (claims statute of limitations, the right to complain and other issues).

b) **Deposit operations.** In the reporting period, fewer complaints related to deposit operations were considered compared to the same period in 2017, and they related to the determination and calculation of the interest rate on the deposit, improper execution of the bank's obligation to return savings deposit funds to the heirs of the deceased depositor, and for which two pieces of information were submitted to the competent organizational parts of the Agency for the purpose of further verification and action.

c) **Payment transactions.** In the observed period, a smaller number of complaints were received in connection with payment transactions, with different circumstances of the emergence of disputed relations. Most of the complaints from this group of banking operations related to the validity of disputed bank claims on accounts and the amount or unilateral change in the amount of fees charged by banks in connection with payment transactions. Other complaints related to the disregard of the legal position of the heirs of the deceased account owner, inadequate information to users about the conditions of legal affairs, and one complaint related to the question of the adequacy of the application of regulations on preventing money laundering.

d) **Electronic payment instruments (EPI).** In the relevant period, 8 complaint procedures were completed, which related to disputed situations regarding the use of electronic payment instruments. Disputed situations related to the issues of the bank's responsibility for unauthorized transfers, i.e. transactions due to misuse of the information system or EPI, the validity period of the EPI usage contract, the disputed calculation of receivables based on the use of EPI and the classification of EPI users' debts in the Central Credit Register, and the well-founded complaints were positively resolved for the users.

e) Within the group of **other complaints**, the subject of the proceedings were disputed relations in connection with the non-realization and information during the cashing of a foreign issuer's check, unauthorized disposal of the balance on the current account of the deceased owner and establishment of a real right in favor of the creditor, and questions related to insurance rights that served as a means of securing fulfillment, and after consideration, explained answers were given in connection with the rights and obligations of the user. One complaint related to the recording of the classification of the user's debt in the Central Credit Register.

The complaints of **persons who personally ensure the fulfillment of the user's obligations** in the observed period were related to the recording of the guarantor status classification in the Central Credit Register, which prevents them from borrowing for their own needs, the issue of the termination of the guarantee contract for obligations arising from the use of the allowed account overdraft or EPI, disputed accounts of receivables and failure to notify the guarantors about the default of the main debtors, and part of the complaint, as before, related to the rights of the guarantor (as an executor) in the procedure initiated by financial organizations before the competent court in order to settle their claims. In this part, it is necessary to point out that in the reporting period there were no procedures for consideration of complaints regarding disputed issues of illegality and irregularity of the procedure carried out during the approval of loans by some financial organization. In addition to the procedures that ended with the resolution of the disputed relationship, in these cases, after consideration, the applicants were given reasoned answers regarding their rights and obligations.

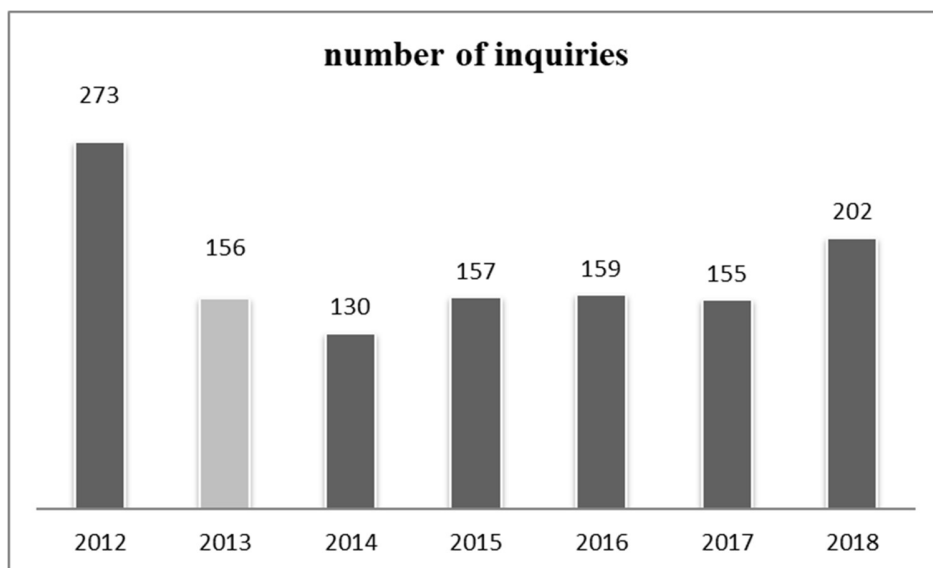
2.2. Inquiries and requests of financial service users

Apart from acting on submitted users' complaints and notifications, until 31/12/2018, through regular and electronic mail, telephone calls and directly from the parties, the Ombudsman received 202 different inquiries or requests for explanations, opinions or instructions regarding the rights and obligations of users or other participants in legal operations and various financial products, and in connection with the application of norms of substantive law, as well as 10 inquiries from legal entities (on request) - business companies, public institutions and one association, to which reasoned answers, recommendations, instructions or opinions were given.

Number of inquiries for acting of financial service providers

Financial service providers	Number of inquiries and percentage
Banks	148 (73%)
Microcredit organizations	34 (17%)
Leasing providers	0 (0%)
Saving credit organizations	0 (0%)
Other	20 (10%)
TOTAL	202 (100%)

Table 2



As in previous periods, the most significant part of the activities in the work of this organizational part continues to be the work of informing and providing answers and explanations about the rights and obligations of users and providers of financial services, by telephone and through the direct reception of parties, and by e-mail, with the aim of more correct and a more complete understanding of certain institutes, rights and obligations in different legal affairs and situations, as well as risks when making decisions about the use of financial services. According to the data from Graph 2, compared to the previous year, a larger number of persons address the Ombudsman in order to get the necessary answers on various issues.

The largest number of questions and requests related to the disputed accounts of claims of financial organizations, especially default interest and costs, then the rights of beneficiaries or guarantors (as executors) in court enforcement proceedings for forced settlement of claims, exercise of the right to early repayment of loans, the amount or increase in fees charged by service providers, especially for non-financial operations and services, the way to terminate the contract and the statute of limitations for claims, as well as other issues arising in factual circumstances. A large number of inquiries and requests related to the disputed recording of user debts in the Central Credit Register, especially users of current accounts due to bank claims that are of small value in terms of absolute amount, which in terms of actions is identical to significantly larger debts and restricts those persons to use other services, and notifications have also been received that the same situation is being misused by financial institutions or entities to whom the banks have assigned claims on this basis, as well as that they are not updating the mentioned data. Out of the total number of users' requests regarding the activities of banks and microcredit organizations, 9 related to disputed relationships with one microcredit organization and 8 to relationships with two banks, which are in bankruptcy proceedings. The opinion regarding the engagement of experts for the purposes of concluding credit legal affairs was given to the Association of Experts of Republika Srpska, and at the request of two experts, an opinion regarding compensation for inactive account was requested.

3. Education

From September 24-26, 2018, the Ombudsman participated in the annual conference International Network of Financial Services Ombudsman Schemes (INFO) 2018 in Dublin, organized by the Ombudsman for Financial Services and Pensions of Ireland, in expert discussions and in the exchange of experiences and information on the most important topics in the work of national organizational forms for protection users of financial services, with special emphasis on issues such as the so-called behavioral economics, the role

of modern technologies in the resolution of disputed relationships, strengthening the capacity of forms for the protection of users of financial services, as well as in the resolution of specific cases and tasks.

From 23-26 October 2018, one employee from the Ombudsman unit took part in counseling in the field of civil law in Jahorina.

4. Cooperation activities with other organizations in order to improve the protection framework for financial service users

a) The Ombudsman performed the tasks assigned within the working group under the coordination of the Ministry of Health and Social Protection and the Ministry of Trade and Tourism in the RS Government and the Directorate for European Integration of BiH, in terms of language, professional and legal editing of the answers to the questions from Chapter 28 the European Commission's questionnaire for the preparation of the opinion on the application of BiH for membership in the European Union, as well as the preparation of answers to the additional questions of the European Commission.

b) As a member of the International Network of Financial Services Ombudsman Schemes, at the request of the secretariat of this organization, the requested answers were sent regarding the most significant problems in the protection of users of financial services in Srpska in 2018 and preparations for the organization's annual assembly.

c) Organized by the International Finance Corporation, a member of the World Bank, in May in Sarajevo, the Ombudsman participated in a training aimed at improving the professional skills of advisors of resource centers in local communities, which was held as part of the third phase of the project "Microfinance in Bosnia and Herzegovina ", which is implemented by this organization.

d) Negotiations, analysis and preparation of drafts and proposals of the Agreement on cooperation with the International Finance Corporation on the implementation of projects and activities with the aim of promotion, improvement and advancement of the position of users of financial services were carried out in the Ombudsman unit.

e) In the reporting period, a working meeting was held with representatives of the World Bank from the Remittances and Payments Program, where views were exchanged on the project for the education of users of these services and the improvement of the market of remittances and retail payments, especially in international payment transactions.

f) The Ombudsman participated in the RTRS thematic television show, and at the request of various media, answers were provided to questions related to the protection of users of financial services.

Conclusion

Compared to last year, there is a certain decrease in the number of reported complaints. Even for the observed reporting period, it is possible to state that some of the disputed relationships arise due to different, more complex issues, which affects the actions of parts of the financial organizations in charge of resolving complaints, as well as the actions of the Ombudsman, because in these cases it is necessary to analyze documents of a different nature, which in total, leads to an extension of the duration of the procedures for consideration of complaints. In view of the long-term need, within the project for improving users' knowledge of financial terms and products, and of rights and obligations from contractual relations with financial organizations, the support of the International Finance Corporation for carrying out specific activities with the aim of promoting such knowledge and the Ombudsman and improving the position of users of financial services was provided. Financial service providers are advised of possible improvements

in internal rules and procedures, as well as their obligations in applying and complying with regulations on the protection of users of financial services, and in justified cases, recommendations are given to resolve disputes in an objectively possible and fair manner. It should be noted that, in connection with the determinations in individual cases, certain analyzes of complaints and information indicating possible violations of regulations on the protection of users of financial services by financial organizations were submitted to the competent organizational parts of the Agency for further action. Appropriate procedures related to the application of regulations are carried out and recommendations are issued to banks and microcredit organizations from the Federation of Bosnia and Herzegovina that operate in Republika Srpska as well.