Swiss Banking Ombudsman - Annual Report 2010

Core points

has - compared to previous "usual" years - "evened out" on a higher level. The development of the case statistics over the years clearly shows the impact of financial markets turmoil and reflects the strong focus of Swiss banks on private banking activities. In 2010, the complexity of cases, specifically in the areas investment counselling and discretionary wealth management, has not decreased.

The treatment of such cases requires a high level of professionalism and knowledge of banking transactions as well as time dedication from the part of the Ombudsman and his staff, thus of course also depending on the quality of indications and documentation provided by customers and banks. About every third case submitted in writing resulted in an intervention with the respective bank. In roughly 30% of such cases, the Ombudsman deemed corrective action as necessary and the banks in 4 out of 5 cases followed his recommendation.

This "success quota", however, shall not hide the fact that - in single cases - tough negotiations were required, involving intense correspondence and discussions and that, in a few cases and although facts were speaking against them, banks did not let themselves to be convinced that compensation is appropriate. For the Ombudsman, such cases are specifically regrettable and should also not be taken on the light shoulder by the respective banks , since the Ombudsman does not hesitate to inform the customer about his arguments and final judgements.

Not only the number of cases but also the average time period needed to handle a case returned to more normal levels, even though some single cases required a higher effort in time than usual. Specifically, judgements against the customer were increasingly - sometimes repeatedly - challenged. Thus, the acceptance of an unfavourable judgement - all the more a judgement in favour of the bank - seems rather diminishing on the customers' side. This presumably not at least due to the past financial crisis and its media coverage.

Also, the documentation quality of submissions by customers partially left so much up to interpretation that demands for clarification and precision was unavoidable. This is certainly also a result of the submission requirements, which are - in contradiction to some other countries - deliberately kept at a minimum, i.e. without asking for complicated forms and structures. The advantage of this is that customers can call upon the Ombudsman's services without adherence to extensive procedures. Specifically very aged customers and individuals not used to prepare a structured documentation appreciate the flexibility of the scheme. However, it must be mentioned too that there are customers who, despite submitting a most rudimentary "documentation", ultimately ask the Ombudsman for immediate action and immediate reimbursement.

The traditionally published case examples regularly seem to be appealing, which is confirmed by active reactions and comments. From time to time, however, customers must be cautioned to compare their own case one-to-one with published examples and to draw respective - premature - conclusions. Even some slight deviations in details can lead to a different judgement in specific cases.

In the current report, there is no focus on a specific banking area. Rather, there is a choice of - in our opinion - interesting cases, specifically in the area of payment traffic as well as an ample description of a life insurance case linked to an investment fund. Due to extensive maturity periods, the impact of latter products is unfortunately in many cases only visible today, i.e. after the market boom has been fading away.

It has always been our goal to handle the workload within acceptable deadlines, thus at the same time adhering to slim structures. The full time work force as well as the composition of board did not change in the year under review.

In addition to mediation activity and the maintenance of the central claims office for dormant accounts, there are conceptional and public relation issues to be handled. In the year under review, there were again numerous demands from media representatives for comments to developments in the financial sector and to single cases. In this respect, the predominantly professional and well-balanced echoes in the media were noticed with satisfaction. The Ombudsman and his deputies were asked by various organisations and interested groups to hold presentations on the core duties and competences. There are repeatedly signs that there is a lack of clear understanding. Also, single banking institutions are interested in presentations to staff members, in order for them to gain first hand exposure to our experiences. Usually, it is well understood though that the Ombudsman, for capacity reasons, is not in a position to accept all invitations for presentations.

The Swiss Financial Market Supervisory Authority (FINMA) has invited to submit comments on its concept "FINMA distribution rules". The Ombudsman will address this issue thoroughly. Regarding the definition of the Ombudsman scheme mentioned in this FINMA-concept, the board itself made some thoughts. It will, also in view of the 20-year anniversary of the Ombudsman scheme in 2013, analyze the results achieved so far by and the future direction of the scheme.

The central claims office for dormant accounts was again consulted frequently. The number of desired questionnaires has slightly increased from last year. The possibility to order such questionnaires electronically through our website was used by more than half of the searchers. Again and overall, considerable values could be made available to authorised persons.

We would like to express our thanks to the board for its active support in performing our duties, to banking customers for their understanding that judgements are not always in their favour and to banks for their predominantly constructive behaviour and understanding of the duties and the role of the Ombudsman.