

Joint

Conciliation Board

of the Austrian

Banking Industry

**Member of the
EU Consumer Complaints Network
for Financial Services (FIN-NET)**

The Conciliation Board

The Austrian banking industry has established a Joint Conciliation Board to settle certain complaints. Customers of all participating credit institutions may turn to the Conciliation Board.

The Conciliation Board is responsible for complaints in connection with

- cross-border credit transfers
- transactions involving electronic payment cards
- electronic commerce
- cross-border payments in euros
- distance selling of financial services.

An independent and impartial ombudsperson who is not subject to instructions will decide on the cases.

Customer complaints will be dealt with quickly, based on a procedure that fulfils the requirements of the European Union.

The Rules of Procedure may be ordered from the Conciliation Board if you state your e-mail address, fax number or postal address or you may find it on the internet at www.bankenschlichtung.at

Questions and Answers

Who is the ombudsperson?

Mr. Herbert Beisteiner has been appointed as the ombudsperson. He is a lawyer and until his retirement was head of department at the Austrian Court of Audit. He worked for the Austrian Court of Audit for 37 years and his last position was that of Head of the Bank Audit Department.

How is the Joint Conciliation Board of the Austrian Banking Industry organised?

The Conciliation Board consists of an independent ombudsperson and the Office of the Conciliation Board. The Office is the place to which bank customers may address their complaints and supports the ombudsperson in administrative matters.

Is the Conciliation Board in conformity with EU law?

The Joint Conciliation Board of the Austrian Banking Industry is in line with EU requirements. It has been notified by Austria to the European Union and is a member of FIN-NET, the Europe-wide network of complaint bodies in the financial services sector, which was established by the European Commission.

To whom do I address my complaint?

By letter: Gemeinsame Schlichtungsstelle
der Österreichischen Kreditwirtschaft
Wiedner Hauptstraße 63
1045 Vienna
Austria

Via fax: +43/1/505 44 74

Via e-mail: office@bankenschlichtung.at

What is my complaint supposed to look like?

There are no special formal requirements.

We kindly ask you to prepare the complaint in German (in cross-border cases English is also possible), to describe the facts and circumstances briefly, to enclose the necessary documents and send it to the Conciliation Board.

In what case can I complain?

Many disagreements are settled by mutual consent directly between customer and bank. We therefore recommend that you contact your credit institution first.

For a complaint to be dealt with by the Conciliation Board the person filing the complaint must have at least tried to reach an agreement with the bank concerned.

In what cases can I appeal to the Conciliation Board (competence of the Conciliation Board)?

The Conciliation Board deals with complaints in connection with

- cross-border credit transfers
- transactions involving electronic payment cards
- electronic commerce
- cross-border payments in euros
- distance selling of financial services.

No conciliation procedure can be conducted if

- the case is already pending before a court or a notified conciliation body or was pending in the past;
- an out-of-court settlement has already been concluded;
- an application for legal aid has been filed or dismissed because of obvious lack of reasons or lack of prospects of success;
- the complainant reports or has reported the case to the police;
- the claim asserted by the complainant has already become statute-barred;
- the procedure requires a decision which cannot be made without clarification of a legal issue of principal or general importance;
- a decision on the complaint can only be made after taking of evidence, which is in contrast to a fast decision-making.

If you have any question as to whether the Conciliation Board is the competent body for your complaint, please contact the Conciliation Board.

Who are the banks that participate in the procedure?

Almost all Austrian banks from all sectors of the banking industry participate in the Joint Conciliation Board of the Austrian Banking Industry.

How do I enter conciliation proceedings?

In Austria credit institutions are subject to banking secrecy and the law on data protection. That is why it is essential that the complainant makes a declaration of consent prior to initiation of the conciliation proceedings. The form may be found on the internet at www.bankenschlichtung.at and will also be sent to you by the Conciliation Board upon request.

By the said declaration the complainant releases the bank concerned from banking secrecy regarding the information necessary for the Conciliation Board of the Austrian Banking Industry and the sector-wise or regional conciliation bodies nominated by the bank to deal with the complaint. The declaration also includes a consent according to the Data Protection Act to transmission of the data that is relevant to the proceedings to the conciliation bodies and use of that data within the scope determined by the Rules of Procedure.

What is the procedure like?

The procedure of conciliation proceedings has been determined in the Rules of Procedure, which have been notified by the Federal Ministry of Justice to the European Union. We will provide you with the Rules upon request.

➤ **Receipt of the complaint**

Receipt of the complaint will be acknowledged in writing. At the same time the complainant will be informed about the next few steps in the proceedings. In addition, if no declaration has been received, the complainant will be asked to make the declaration on release from banking secrecy and give his/her consent to use of data, which is absolutely necessary for continuation of the proceedings.

➤ **Examination of whether the complaint is admissible**

In the event that the complaint is inadmissible (see exemption from conciliation), conciliation proceedings that have already commenced, if any, will be discontinued and the complainant will be informed accordingly.

Admissible complaints will be forwarded to the bank concerned or to the sector-wise or regional conciliation body nominated by the bank before, with the request to comment on the complainant's statement within six weeks.

The bank's opinion will be presented to the complainant. S/he will also be given a possibility to comment on the same in writing within six weeks.

➤ **Conciliation proceedings before the ombudsperson**

The ombudsperson will make his/her decision on the basis of the documents presented in the proceedings. S/he will not take evidence unless evidence has been provided in the form of documents presented. The ombudsperson may request supplementary explanations and/or documents from the parties to clarify the matter and also hear the parties personally if s/he considers this to be necessary.

➤ **The conciliation award**

Finally the ombudsperson will render a written conciliation award, which will include the reasons for the decision.

If no conciliation award can be rendered, the ombudsperson is in any case entitled to present a settlement proposal.

How do I know about the outcome of the proceedings?

The ombudsperson's conciliation award or settlement proposal will immediately be sent to the complainant via e-mail, fax or letter.

Is the conciliation award rendered by the ombudsperson binding?

The credit institution will be bound by a conciliation award up to an amount of EUR 4,000. If the complainant is awarded an amount exceeding EUR 4,000 by the ombudsperson, the credit institution may voluntarily declare itself to be bound by the award. In that case the complainant will be informed accordingly.

The complainant will only be bound by the award if s/he declares acceptance of the same in writing within four weeks of service of the conciliation award.

What are the effects of the ombudsperson's conciliation award?

If the credit institution and the complainant are bound by the conciliation award rendered by the ombudsperson (see "Is the conciliation award rendered by the ombudsperson binding?") it constitutes an out-of-court settlement.

The credit institution is obliged to fulfil the binding conciliation award immediately upon acceptance by the complainant.

If the conciliation award is not accepted by the complainant or if the amount awarded is higher than EUR 4,000 and the credit institution does not accept the same, the award has no binding effect, neither on the customer nor on the bank. Then either party is free to call upon the ordinary courts of justice.

In that case the decision rendered by the ombudsperson has the quality of a recommendation made on the basis of expert authority. The same applies to a settlement proposal presented by the Conciliation Board, if any.

What are the costs involved in conciliation proceedings?

Each party will bear its own costs and expenses incurred in connection with the conciliation proceedings as well as the costs of their representation, if any.

Apart from that no cost contribution to conciliation proceedings has been provided for so far.

Do I have to expect that my claims will become statute-barred due to the proceedings?

No. Statutory periods of limitation will be suspended for the duration of the proceedings and for 4 weeks after receipt of the conciliation award or discontinuation of the proceedings.

Are the proceedings confidential?

All customer complaints will be treated as strictly confidential. The ombudsperson as well as all staff of the Conciliation Board are subject to a duty to maintain secrecy vis-à-vis third parties about all facts and opinions of which they become aware in connection with conciliation proceedings. The conciliation awards rendered by the ombudsperson will not be published.

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