

Principle

Disputes regarding legal claims between the client and the financial service provider should be settled by an ombudsman in mediation proceedings if possible.¹

FinSA Mediation²

- ◇ Mediation is a dispute resolution procedure that must be straightforward, fair, quick, impartial and confidential.
- ◇ The procedure must be inexpensive or free of charge for the client.
- ◇ The mediation body appoints the mediator.
- ◇ The company has the obligation to participate in the procedure.
- ◇ The procedure is conducted according to the language agreed between the parties or the national language chosen by the client.
- ◇ The objective of the procedure is to find a common solution between the parties.
- ◇ The success of the procedure depends on the willingness of the parties to find a common solution.

Role of the Ombudsman

The Ombudsman acts as a neutral third party between the parties in conflict or dispute to assist them in resolving it or finding a common solution.

The Ombudsman takes the appropriate measures for mediation unless there appears to be no prospect of success from the outset. If an agreement is not reached or there appears to be no prospect of such, the Ombudsman may give the parties his own factual and legal assessment of the dispute based on the information available and include it in the notification of conclusion of proceedings. The Ombudsman shall freely assess the cases submitted to him and is not subject to any directives but has no decision-making power.

Role of the Ombudsman Office

The Ombudsman should be and be seen to be as independent and impartial as a judge - yet have the legal and technical expertise to resolve financial disputes with authority. This should be reflected in the appointment and governance arrangements of the mediation body.

FinSA Conditions

A mediation request is permissible at any time if:

- ◇ It was submitted following FINSOM's instructions available at www.finsom.ch.
- ◇ The client credibly proves that they previously informed the company of their point of view and attempted to reach an agreement.
- ◇ It is not obviously vexatious.
- ◇ Mediation proceedings have not already been conducted in the same matter.
- ◇ The case is not being or has not been dealt with by a conciliation authority or by a court, court of arbitration or administrative authority.

FINSOM

- ◇ FinSA ombudsman office recognised by the Federal Department of Finance (FDF) in 2020.
- ◇ First ombudsman office of the Swiss financial sector to act in the public interest.
- ◇ Unique independence in the Swiss financial sector that guarantees impartiality.
- ◇ Specialised in mediation in the financial sector.
- ◇ The procedure at FINSOM is free of charge for the client.

¹ Art. 74 of the Financial Services Act (FinsA).

² FinSA mediation rules and other requirements can differ from the rules applied in other mediation fields or by other organisations/institutions active in mediation.