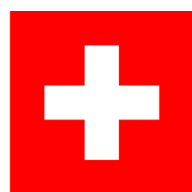




# Activity Report 2022



**FINOS**  
Finanzombudsstelle  
Schweiz

In accordance with Article 86 of the Financial Services Act (FINSA), Finanzombudsstelle Schweiz (FINOS) is required to publish an annual activity report.

Zurich, 20.06.2023

Beyzade Han  
Ombudsman



### **Imprint**

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# Activity Report 2022

We are pleased to present our activity report for the 2022 financial year. As an independent institution, we have dedicated ourselves to being a trustworthy mediator between clients and financial service providers in the event of disputes.

In this report we give you an overview of our activities, challenges and successes in the past year. We show how we have been able to create added value for our affiliated financial service providers and their clients through our constant commitment to amicable, out-of-court dispute resolution.

Even though our ombudsman's office has been active for several years, there was no routine in our activities in the 2022 business year. The Swiss financial sector continues to undergo a process of change, which was triggered in particular by new regulatory framework conditions. This changed regulatory environment for financial service providers and the extraordinary events that occurred on the financial markets also had an impact on our ombudsman's office in various areas. On the one hand, there was increased administrative work due to numerous new registrations and some deregistrations of financial service providers. On the other hand, the current topics made themselves felt at the substantive level in the processing of conciliation requests.

The fact that the transitional period for Swiss financial service providers ended on 31 December 2022 in connection with the newly required FINMA licensing obligation was certainly of outstanding importance with regard to the deregistrations from our ombudsman's office. This led to certain financial service providers withdrawing from this business activity. Of the 127 notifications of withdrawal in 2022,

76 concerned financial service providers domiciled in Switzerland. Fortunately, our ombudsman's office also registered numerous new registrations. The majority of the new registrations concerned financial service providers who registered in a Swiss advisor register. With 180 new registrations, the number of deregistrations was far exceeded, which meant that the number of companies registered with our ombudsman's office rose again in the 2022 financial year. At the end of 2022, 1084 financial service providers were registered with our ombudsman's office.

## **Reduction of the base fee**

Fortunately, the efficient organisation of our ombudsman's office and the increase in affiliated financial service providers allowed us to reduce the base fee for 2023 from CHF 540 to the current CHF 520, despite the inflation that is also being felt by our ombudsman's office.

## **CONCILIATION REQUESTS**

In the past year, we encountered various challenges in conciliation requests that had to be overcome. The complexity and diversity of the cases we were confronted with sometimes required extensive research and careful analysis in order to be able to work out appropriate solutions. We have been careful to listen to all parties, to understand their concerns and to ensure constructive exchanges between them despite the confidentiality of communications with each party. As a result, we have been able to help clarify misunderstandings and resolve conflicts, often even in the preliminary clarification phase, i.e. without officially opening a conciliation procedure. When conflicts are resolved in the pre-clarification phase, the financial service provider concerned does not

incur any costs, as our corresponding services are covered by the annual base fee until the official opening of a conciliation procedure.

In the reporting year 2022, our ombudsman's office received 63 conciliation requests. This is twice as many as in the previous year.

It should be remembered at this point that a conciliation procedure can only be started if a concrete damage has occurred to the client of a financial service provider, the client has previously tried to solve the problem bilaterally with the financial service provider and no other authority has yet become active in this matter.

These criteria are already checked when entering a conciliation request via the website of our ombudsman's office. If the criteria are not met, information about the reasons is provided automatically when the request is submitted online. These requests are not recorded for data protection reasons and are not included in the 63 conciliation requests mentioned above. We therefore assume that the actual number of requests was significantly higher. The only requests for conciliation that are recorded statistically are those for which the criteria for a conciliation procedure initially appear to be fulfilled, but which still have to be examined in detail by an employee of the ombudsman's office. It turned out that the ombudsman's office was not competent for 61 enquiries, either because the requirements for conducting a conciliation procedure were not met or, as mentioned above, the case could already be resolved in the preliminary clarification phase. Since the costs of a conducted conciliation procedure are to be borne by the financial service provider concerned and he has to participate in the conciliation procedure, the ombudsman's office examines very closely whether the prerequisites for initiating a conciliation procedure are fulfilled.

The following are some reasons why no conciliation proceedings were initiated despite a submitted conciliation request.

#### **Too early**

Clients contacted our ombudsman's office in order to avert a supposedly imminent financial loss at an early stage. This is understandable, but the involvement of the ombudsman's office at such an early stage is not provided for by the legislator. Based on our experience, this regulation makes sense. In 2022, similar to the last reporting year, no conciliation proceedings had to be carried out at a later point in time for any enquiries of this kind, as the feared financial damage ultimately did not occur. Obviously, these cases could be solved, as we recommended, by the client contacting the financial service provider.

#### **Residence not in Switzerland**

Our ombudsman's office is responsible for all clients of Swiss financial service providers. In the case of foreign financial service providers, however, it is only responsible for clients domiciled in Switzerland. If both the client and the financial service provider are domiciled abroad, our ombudsman's office is not responsible. There have been individual cases where we have declared ourselves incompetent for this reason, even though the foreign financial service provider was registered with us.

#### **No sufficient search for solutions**

In the case of individual enquiries, our ombudsman's office declared itself incompetent because the client had not previously made any or only limited efforts to find a bilateral solution with the financial service provider. In such cases, the client is informed that he or she may contact our ombudsman's office again at a later date if the bilateral search for a solution should fail.

### **Willingness to search for solutions**

In individual cases, we have found that our ombudsman office's contact with the financial service provider in the course of preliminary clarifications awakened the financial service provider's willingness to negotiate. This led to the fact that no formal conciliation procedure had to be initiated, as the parties were ultimately able to reach an agreement bilaterally.

Our ombudsman's office welcomes and supports it when the parties can come to an agreement bilaterally and no formal conciliation proceedings have to be initiated.

### **No misconduct**

In the case of individual client enquiries, the facts could already be clarified by telephone, as it quickly became clear that there was obviously no misconduct on the part of the financial service provider. These clients voluntarily refrained from initiating a conciliation procedure. The financial service providers concerned are not informed in these cases.

### **Clarifications covered by annual fee**

Preliminary clarifications before opening a conciliation procedure are part of the most important base service of our ombudsman's office and are covered by the annual fee. Consequently, the financial service providers concerned were not charged any expenses in this context. For the clients of the financial service providers, both conciliation requests and the conduct of conciliation proceedings are free of charge. By making conciliation requests free of charge, the financial hurdle for conciliation requests was deliberately set low in order to ensure good access to the conciliation procedure. However, to ensure that no unnecessary conciliation proceedings are initiated, the ombudsman's office examines the existence of the preconditions very closely in the course of the preliminary clarifications. Based on our

experience, the low access hurdle for clients required by law has the advantage that, thanks to contacting our ombudsman's office, ambiguities and misunderstandings can be clarified at an early stage. This prevents unnecessary escalation due to a misinterpretation of the facts. Clients thus benefit from a professional assessment within the framework of the preliminary clarifications by a neutral body without incurring costs for either party, even without conducting a conciliation procedure.

### **CONCILIATION PROCEEDINGS**

The number of pending conciliation proceedings from the previous year and the new conciliation proceedings opened in the reporting year 2022 totalled three. Of these three conciliation proceedings, two were successfully concluded in the 2022 reporting year and one was still being processed at the end of 2022.

We consider the low number of cases officially opened and conducted to be positive, as we already actively support the conflicting parties in finding a solution in the preliminary clarification phase before proceedings are opened, especially when it comes to low amounts in dispute and a mutually agreeable solution path is discernible at an early stage.

### **SOME STATISTICS**

Of the financial service providers affiliated at the end of 2022, 66% (+2% compared to the previous year) were from Switzerland and 34% (-2%) were based abroad. The increase in the number of affiliated financial service providers to 1084 at the end of 2022 is mainly due to financial service providers from Switzerland.

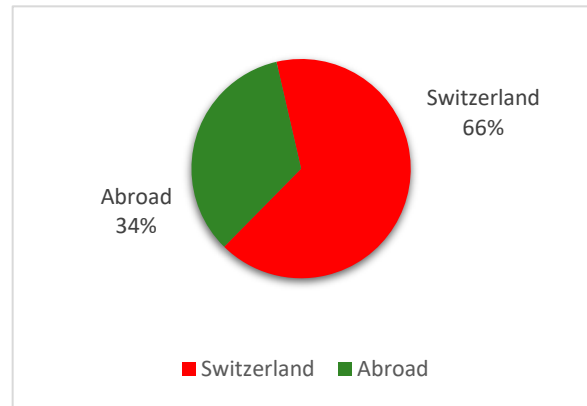
For financial service providers from abroad, the top five countries were the UK (excluding the Channel Islands) with 122, the USA with 84, Germany with 29, China (Hong Kong) with 22 and Singapore with 19 affiliated financial service providers. In total, the affiliated finan-

cial service providers came from 34 different countries.

All financial service providers have undergone a due diligence process prior to their admission, during which the information required by the ombudsman's office was verified. The main objective of this due diligence is to ensure that affiliation to the ombudsman's office is only allowed to those financial service providers who are legally active in the Swiss financial sector.

We would like to thank all parties involved for the trust they have placed in us. In the future, our ombudsman office will continue to actively contribute to the conflict parties finding good and balanced out-of-court solutions with great commitment, a neutral attitude and a pragmatic approach.

Beyzade Han  
Ombudsman



**Figure 1: Ratio between financial service providers in Switzerland and abroad**