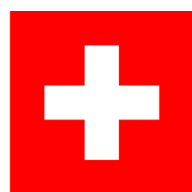




# Activity Report 2021



**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, 28.06.2022

Beyzade Han  
Ombudsman



### **Imprint**

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# Activity Report 2021

The first business year 2020 was mainly characterized by the establishment of the ombudsman's office and the initial registration of financial service providers. In the past business year 2021, personnel resources were increasingly used for the preliminary clarification of conciliation requests and the conduct of conciliation proceedings. Despite this shift, staff resources continued to be used predominantly for administrative activities in 2021. This is due to several factors. On the one hand, although the registration deadline for financial service providers ended at the end of 2020, with 199 new registrations more financial service providers were affiliated on a larger scale in 2021. On the other hand, the Swiss Federal Council decided on 11 December 2020 to restrict the obligation to affiliate with ombudsman institutions, which came into force on 1 February 2021 and led to numerous deregistrations. In this context, our ombudsman service informed all financial service providers affiliated with us in good time about the possibility of an un-bureaucratic deregistration. A total of 134 financial service providers were deregistered from our ombudsman service last year, mainly due to this restriction.

After taking into account all registrations and deregistrations during the year, a net of 1031 financial service providers were registered with our ombudsman service at the end of 2021. Compared to the previous year, the number of affiliated financial service providers increased by 65 or 6.7%.

## ARBITRATION REQUESTS

In the reporting year 2021, our ombudsman's office received 31 requests for conciliation. In

26 enquiries, the ombudsman's office declared itself not responsible because the requirements for conducting a conciliation procedure were not met.

It should be remembered at this point that a conciliation procedure can only be started if a concrete financial 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 a conciliation request is entered via our website. 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 31 conciliation requests mentioned above. We therefore assume that the actual number of enquiries was significantly higher.

Since the costs of a 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 requirements for initiating a conciliation procedure are met.

No conciliation proceedings were initiated despite a submitted conciliation request in the following cases.

### Too early

Clients contacted the 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 of-

office at such an early stage was not intended by the legislator. In our opinion, this also makes sense. In all enquiries of this kind, no conciliation procedure had to be concluded at a later stage because the feared financial damage did not occur in the end.

### **No financial damage**

There were cases where clients claimed financial loss, for example due to an involuntary account closure and the related involuntary sale of securities. However, a closer look showed that the involuntary sale of securities had even led to a financial benefit, as the securities had lost value in the meantime compared to the forced sale date at the time. Regardless of whether the account closure was justified or not, the ombudsman's office declared itself not responsible in such cases, since, albeit by luck, no financial loss had been incurred. For pragmatic reasons, our ombudsman's office refrained from a detailed analysis of the circumstances in such cases. If the securities had increased in value since the account was closed, our ombudsman's office would have carried out a more detailed clarification of the facts.

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

In the case of numerous enquiries, the ombudsman's office declared itself not responsible because the client had not previously made any effort, or only a minor effort, to reach a bilateral solution with the financial service provider. If no serious attempt has been made between the client and the financial service provider to resolve the case, our ombudsman's office prefers to give the parties this chance before becoming active in the matter itself. This offers the financial service provider a last chance to settle the case without any costs through an arbitration process. In such cases, the client is informed that he can approach the

ombudsman's office again at a later stage if the bilateral search for a solution should fail.

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

In individual cases, we found that when our ombudsman's office contacted the financial service provider in the course of preliminary investigations, the financial service provider's initial unwillingness to negotiate was overcome. This led to the situation that no formal conciliation procedure had to be initiated, as the parties were finally able to come to an agreement bilaterally.

### **No misconduct**

In the case of some client enquiries, the facts could already be clarified by telephone, which made it clear to the clients that there was obviously no misconduct on the part of the financial service provider. These clients voluntarily refrained from initiating a conciliation procedure.

## **CLARIFICATIONS COVERED BY ANNUAL FEE**

Clarifications based on conciliation requests are part of the base service of the ombudsman's office and are covered by the annual fee of the financial service providers. The financial service providers in question were not charged any expenses in this context. For the clients of the financial service providers, both conciliation enquiries and the conduct of conciliation proceedings are free of charge. By exempting the clients of financial service providers from fees, the hurdle for conciliation requests was deliberately set low in financial terms 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 as part of the preliminary clarifications. In our opinion, the low hurdle for clients required by law has the advantage that, thanks to the contact with our ombudsman's office, ambiguities or misunderstandings can be clarified before an escalation occurs unnecessarily due to a misinterpretation of the facts. Clients thus benefit from a professional assessment by a neutral body even without conducting a conciliation procedure as part of the preliminary clarifications.

## ARBITRATION

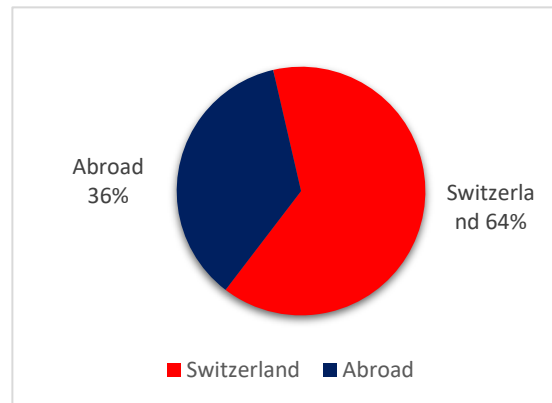
After two conciliation proceedings were opened in 2020, six more conciliation proceedings were initiated in 2021. Of these eight conciliation proceedings, seven were finalized in the reporting year. No agreement could be reached in only one of these seven proceedings. In the remaining six proceedings, the differences between the parties could be settled out of court and conclusively within the framework of the conciliation proceedings.

Since the number of conciliation cases is still relatively low, we will not provide more detailed explanations about the individual conciliation cases here, in order to prevent conclusions about the parties involved.

Generally speaking, the conciliation proceedings dealt with issues such as conflicts of interest, retrocessions, insufficient recording or disregard of the correctly recorded risk profile or investment strategy, incorrect fee calculation, a delayed reaction of the financial service provider to client orders with negative financial consequences. Each case was unique in its own way and it became apparent that financial sector-specific expertise is important for the efficient and successful conduct of a procedure.

## SOME STATISTICS

Of the financial service providers affiliated as of the end of 2021, 64% were from Switzerland and 36% were domiciled abroad.



*Ratio between financial service providers in Switzerland and abroad*

The top five foreign countries were the UK (excluding the Channel Islands) with 111 affiliates, the US with 88, Germany with 27, Hong Kong with 24 and Singapore with 19. In total, the affiliated financial service providers came from 33 different countries.

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

We thank all parties for the trust they have placed in us. In the future, we will continue to attach great importance to actively helping the conflicting parties find good, balanced solutions out of court with a neutral stance and a pragmatic approach.

Beyzade Han  
Ombudsman