

CONSUMER PROTECTION IN BANKING SECTOR

OVERVIEW:

Reserve Bank of India (RBI) is the regulator of finance and banking sector in India. The Banking Regulation Act, 1949 and Reserve Bank of India Act, 1934 are the primary legislations that deal with the banking sector. Both these legislations have provisions which aim at protecting the consumers' interests. Apart from these two legislations, RBI has issued various regulations and circulars which specifically deal with the protection of consumers. RBI has also come out with several schemes like Banking Ombudsman scheme which aims at protecting the consumer.

GROUNDS FOR COMPLAINT:

The complaint should fall under any of the category which is mentioned in Section 8 of the scheme, or else he will be deprived of his right to complaint.¹

HOW TO FILE A COMPLAINT:

Firstly an individual has to approach the GRO (Grievance Redressal Officer) of the respective bank to resolve the issue. If the bank failed to reply to his complaint within a month from the date of receipt of the complaint, the individual can approach the banking ombudsman for redressal of their grievance.

BANKING OMBUDSMAN SCHEME:

The banking ombudsman scheme has been introduced to resolve the disputes between the customers and the bank with respect to the services provided by the bank. It was introduced in the year 1995, at present the Banking Ombudsman scheme 2006 (As amended up to 1st of July 2017). The banking ombudsman follow a strict protocol while disposing a complaint.

POWERS AND JURISDICTION²:

The Banking Ombudsman shall receive and consider complaints relating to the deficiencies in banking or other services filed on the grounds mentioned in clause 8 **irrespective of the pecuniary value of the deficiency in service complained**. They can pass awards up to 2 million rupees but won't be able to pass awards more than the losses incurred by the complainant. The ombudsman have the power to issue additional amount up to 0.1 million with the compensation by taking the mental agony and harassment suffered by the complainant.

PROCEDURE FOR FILING A COMPLAINT³:

If an individual has any one of the grievance mentioned under Section 8 of the scheme, they can file a complaint by filing the complaint form with the requisite details.

FOOTNOTES:

¹ Refer Chapter IV of Section 8, Grounds of complaint.

https://rbidocs.rbi.org.in/rdocs/Content/PDFs/BOS2006_2302017.pdf

² Referred from chapter III Section 7, Powers and jurisdiction

https://rbidocs.rbi.org.in/rdocs/Content/PDFs/BOS2006_2302017.pdf

³ Refer chapter IV of section 9 , procedure for filing a complaint

https://rbidocs.rbi.org.in/rdocs/Content/PDFs/BOS2006_2302017.pdf

- i. The name and the address of the complainant
- ii. The name and address of the branch or office of the bank against which the complaint is made
- iii. The facts giving rise to the complaint,
- iv. The nature and extent of the loss caused to the complainant, and
- v. The relief sought for.

COMPLAINT FORM:

The below mentioned link would direct the user to complaint form which is to be filed before the ombudsman.

<https://www.rbi.org.in/Upload/Publications/PDFs/BOL.pdf>

ADDRESS & CONTACT INFORMATION:

The below mentioned link directs the user to the contact information of the banking ombudsman.

<https://www.rbi.org.in/commonman/English/scripts/againstbankabo.aspx>

STATISTICS OF COMPLAINTS DISPOSED BY THE BANKING OMBUDSMAN⁴:

Number of complaints	Year		
	2014-15	2015-16	2016-17
Received during the year	85131	102894	130987
Brought forward from previous year	3307	3778	5524
Handled during the year	88438	106672	136511
Disposed of during the year	84660	101148	125319
Rate of Disposal (%)	96%	95%	92%
Carried forward to the next year	3778	5524	11192

FAQS' ⁵

1. Can a complaint be filed by ones authorized representative?

Yes. The complainant can be filed by ones authorized representative (other than an advocate).

2. Is there any cost involved in filing complaints with Banking Ombudsman?

FOOTNOTES:

⁴ <https://rbi.org.in/Scripts/PublicationsView.aspx?id=18052#C8>

⁵ <https://rbi.org.in/scripts/FAQView.aspx?Id=24>

No. The Banking Ombudsman does not charge any fee for filing and resolving customers' complaints.

3. Can compensation be claimed for mental agony and harassment?

The Banking Ombudsman may award compensation not exceeding ₹ 1 lakh (₹ One Hundred Thousand) to the complainant for mental agony and harassment. The Banking Ombudsman will take into account the loss of the complainant's time, expenses incurred by the complainant, harassment and mental anguish suffered by the complainant while passing such award.

4. What details are required in the application?

Name and address of the complainant, the name and address of the branch or office of the bank against which the complaint is made, facts giving rise to the complaint supported by documents, if any, the nature and extent of the loss caused to the complainant, the relief sought from the Banking Ombudsman and a declaration about the compliance with conditions which are required to be complied with by the complainant under Clause 9(3) of the Banking Ombudsman Scheme.

5. What happens if the complaint is not settled by agreement?

If a complaint is not settled by an agreement within a period of one month, the Banking Ombudsman proceeds further to pass an Award. Before passing an award, the Banking Ombudsman provides reasonable opportunity to the complainant and the bank, to present their case. It is up to the complainant to accept the award in full and final settlement of or to reject it.

6. Is there any further recourse available if one rejects the Banking Ombudsman's decision?

Any person aggrieved by an Award issued under Clause 12 or the decision of the Banking Ombudsman rejecting the complaint for the reasons specified in sub-clause (d) to (g) of Clause 13 of the Banking Ombudsman Scheme 2006 (As amended up to July 1, 2017) can approach the Appellate Authority. The Appellate Authority is vested with a Deputy Governor of the RBI.

Other recourse and/or remedies available to him/her as per the law can also be explored. The bank also has the option to file an appeal before the Appellate Authority under the Scheme.

7. Is there any time limit for filing an appeal?

One can file the appeal against the award or decision of the Banking Ombudsman rejecting the complaint within 30 days of the date of receipt of the Award, The Appellate Authority may, if he/ she is satisfied that the applicant had sufficient cause for not making an application for appeal within time, also allow a further period not exceeding 30 days.

8. How does the appellate authority deal with the appeal?

The appellate authority may:

- Dismiss the appeal; or
- Allow the appeal and set aside the Award; or
- Send the matter to the Banking Ombudsman for fresh disposal in accordance with such directions as the appellate authority may consider necessary or proper; or
- Modify the Award and pass such directions as may be necessary to give effect to the modified award; or

- Pass any other order as it may deem fit.

9. Can the Banking Ombudsman reject a complaint at any stage?

Yes. The Banking Ombudsman may reject a complaint at any stage if it appears to him that a complaint made to him is:

- Not on the grounds of complaint referred to above
- Compensation sought from the Banking Ombudsman is beyond ₹ 20 lakh (₹ Two Million).
- Requires consideration of elaborate documentary and oral evidence and the proceedings before the Banking Ombudsman are not appropriate for adjudication of such complaint
- The complaint is without any sufficient cause
- The complaint that it is not pursued by the complainant with reasonable diligence
- In the opinion of the Banking Ombudsman there is no loss or damage or inconvenience caused to the complainant.

For further details click the link below.

<https://rbi.org.in/scripts/FAQView.aspx?Id=24>

ACTS AND SCHEMES WHICH GOVERN THE BANKING SECTOR

1. Banking regulations Act 1949.

<https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/BANKI15122014.pdf>

2. Negotiable Instruments Act, 1881.

<https://indiankanoon.org/doc/1132672/>

3. Reserve Bank of India Act 1934.

<https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/RBIA1934170510.PDF>

4. The Banking Ombudsman Scheme 2006.

https://rbidocs.rbi.org.in/rdocs/Content/PDFs/BOS2006_2302017.pdf

PROCEEDING IN ACCORDANCE WITH THE CONSUMER PROTECTION ACT, 1986:

One can file a case in the respective consumer forums/ commission either in case of getting relief or to appeal.

http://clap.nls.ac.in/?page_id=102

