

Annual Report 2008



Mission

As an independent statutory body established to resolve disputes between consumers and banks, it is our commitment to deliver free of cost, speedy solutions for all disputes referred to us, in a manner that is impartial, fair and equitable to all parties



بینکنگ و احتساب پاکستان

Banking Mohtasib Pakistan

Our Aim

“ To resolve all disputes amicably through an informal and friendly process of reconciliation rather than a formal adversarial procedure. We cannot take sides. ”

Ombudsman

a short history

Genesis

In the modern world, an ombudsman was first established in 1809 in Sweden. The word "ombudsman" is of Swedish origin and means "representative or agent" of the people.

In 1919, more than a century after Sweden appointed an ombudsman, another Scandinavian country, Finland, adopted the Swedish model for the redressal of public grievances against agencies of state. The next country to follow was Denmark-this happened more recently in 1955.

The first country outside Europe to establish such an office was New Zealand. This was in 1962 and generated tremendous global interest inspiring many countries, in search of good governance, to launch such schemes. Today, over 100 countries have such a platform in place.

In 1995, the European Union established the first European ombudsman under the Maastricht Treaty.

Core Values

We function as a closely-knit team and take collective responsibility for individual decision-making. We have full ownership of our core values and firmly believe that living by these values, both in our professional and personal lives, we can make a difference.

Responsive

We receive a large number of disputes daily. We use a practical and rational approach to find fair and amicable outcomes in a manner that is informal and speedy.

Compassionate

Disputes, howsoever petty, cause unnecessary pain and stress. We analyze each dispute with an open mind and if necessary listen to parties concerned, patiently and sympathetically, so as to find a practical and equitable solution.

Flexible

We believe that most disputes can be resolved in a friendly and amicable manner. We do not allow rigidity to dictate the dispute resolution process. Instead, we endeavor to create an environment where all concerned are encouraged to be reasonable and conciliatory.

Trustworthy

We treat all those we meet with respect, courtesy and compassion because only by doing so we gain their confidence and trust.

Transparent

We are neither consumer champions nor advocates. Neutrality and openness will underpin our deliberations. Our service is free of charge. We respect confidentiality in all disputes and institute a process of conciliation that is acceptable to both parties. Decisions taken by us are consistent, clear and balanced so that any rational mind can appreciate the reasoning behind our findings.

Definition

Several attempts have been made to arrive at an appropriate definition of the ombudsman.

In 1974, the International Bar Association agreed upon the following definition:-

“An office provided for by the constitution or by an action of the legislature or parliament and headed by an independent, high-level public official who is responsible to the legislature or parliament, who receives complaints from aggrieved persons, officials, and employees or who acts on his own motion, and has the power to investigate, recommend corrective action, and issue reports.”

Evolution

The modern ombudsman owes its evolution to a variety of factors.

Apart from focus on good governance at state level, major factors in the popularity of ombudsmen include the relatively recent quest for human rights, higher public awareness and education, the public's participatory role in state governance, expanded bureaucracies, emergence of new democracies with inexperienced public servants and rising maladministration.

Surprisingly, until only about 20 years ago, the ombudsman role was largely restricted to entertaining grievances against departments of state only.

However, a shift from state to private enterprise, exceptional growth in the services sector globally and a rapidly expanding consumer base encouraged both the private sector and governments to embrace and launch such schemes intra-industry. As recourse to courts of law, although expensive and protracted, is always available, the newer schemes were largely restricted to small businesses and individuals where redressal could be obtained quickly and free of cost.

Perhaps the first industry to embrace the concept was the banking industry.

The UK Banks Association established a banking ombudsman in 1986. However, in 1999, a statutory UK banking ombudsman was established which incorporated the activities of eight private sector ombudsmen within the financial services sector. Today, banking ombudsmen or similar schemes exist in about 25 countries both within the public and private sectors. Costs of the schemes are invariably borne by the banks.

Ombudsman schemes worldwide have been highly successful, not only in resolving disputes but also by improving service quality and efficiency levels. Whilst courts only serve to adjudicate on facts presented, ombudsmen may, during the dispute resolution process, identify systemic weaknesses and recommend improvements. Another compelling reason for the success of ombudsmen is on grounds of cost alone. Anecdotal evidence suggests that cost saving achieved by avoiding extended litigation far outweighs the cost incurred in funding the schemes. Also, compared to the arduous and lengthy legal process, the ombudsman process is informal, flexible and quick. Another important and beneficial aspect of the schemes is that complainants have nothing to lose because they always retain the right to seek legal redress later.

Scope of Financial Sector Ombudsman Schemes

The Ombudsman's role in the financial services industry is to resolve disputes through a process which is largely conciliatory, and where mediation is unsuccessful, to pass a reasoned order for the settlement of a dispute.

Financial services ombudsmen schemes worldwide have had a salutary influence on the financial system, where banks have become increasingly conscious of their responsibilities as service providers, and on the need to satisfy and meet customer demands professionally and efficiently. Indeed in some countries, banks have appointed their own ombudsmen, independent of management.

Ombudsman's scope and jurisdiction varies across countries. The majority of schemes cater to individuals and small businesses. The Greek banking ombudsman, for example, is established within the private sector and accepts complaints from non-legal entities, i.e. individuals only.

Along with the UK, the Australian scheme is considered an industry benchmark. Both cater to small businesses and individuals. The Australian scheme has an award limit of AUD 250,000 and the UK scheme, GBP 100,000.

Banking Mohtasib (Ombudsman) in Pakistan

The enabling law for the establishment of the Banking Mohtasib Pakistan (BMP) was enacted on May 5, 1997 through Chapter IVA in the BCO. However, a Banking Mohtasib was not appointed at the time.

Meanwhile, market size and potential, privatization, the process of liberalization and streamlining of the tax structure had encouraged banks to rapidly expand products and services, primarily consumer oriented.

The paradigm shift in the financial services sector had not only encouraged healthy competition within the banks, it had also resulted in substantial growth in consumer banking activities with banks frequently launching new and innovative products which were marketed aggressively and packaged attractively. For consumers, the “buy now-pay later” syndrome promised better quality of life and even though exact cost and allied charges were not always transparent in bank advertising, the lure was far too strong to resist.

In order to educate consumers and allow them to make informed decisions, SBP had repeatedly asked banks to ensure advertisement transparency, and indeed instructed banks to prominently display their lending and deposit rates on all consumer products as well as posting the information on their websites. In addition, banks have been asked to inform their customers of the intricacies of ATMs, ATM Cards, Credit & Debit Cards and obligations of cardholders.

Regulatory intervention for increased transparency and consumer awareness became necessary following noticeable increase in small consumer loans default rate and customer complaints attributed to misleading product information provided at sale stage.

The increasing volume of associated complaints received at SBP, together with the Government's strong desire to provide customers with an independent, free, impartial and expeditious complaints resolution mechanism, resulted in the appointment of the Banking Mohtasib in August 2004.

The Banking Mohtasib function opened its door to the public on May 2, 2005. The Banking Mohtasib Secretariat is located at Shaheen Complex, M.R. Kiyani Road, Karachi. Regional offices in Lahore, Peshawar and Quetta are situated within SBP premises. An office of the Banking Mohtasib has also been established in Rawalpindi within SBP premises.

Jurisdiction & exclusions

In relation to all scheduled banks operating in Pakistan, Banking Mohtasib has been empowered to entertain all complaints relating to banking services and products.

Banking Mohtasib has been given adequate powers to call for such information as would be relevant for the disposal of complaints provided legal banking confidentiality is maintained.

However, Banking Mohtasib does not have the power to direct banks to grant loans and advances.

Banking Mohtasib has no jurisdiction to consider complaints against a bank's loans mark-up policies, risk policies or product and services pricing if included in schedule of charges and any other policy matter.

Any matter, which is subjudice or has been decided upon by a court of law or any other legal forum, is outside the purview of the Banking Mohtasib.

Grievances of bank employees or ex-employees pertaining to their terms and conditions of services fall out with the jurisdiction of the Banking Mohtasib.

Annual Report - 2008

The Annual Report of Banking Mohtasib Pakistan for the year ending December 31, 2008 is being presented under Section 82G of the Banking Companies Ordinance (BCO).

At the outset, it is mentioned that Mr. Azhar Hamid on completion of his three year non-extendable term as Banking Mohtasib Pakistan relinquished charge of the post on April 30, 2008. The new incumbent to the post of Banking Mohtasib has now been appointed.

During the period in the absence of the Banking Mohtasib, it was not legally possible to hold a formal hearing of a complaint or to pass a final order upon it. What the Secretariat of Advisors could do, however, was to investigate the complaint with the Bank and the Complainant and arrive at a preliminary decision subject to the approval of the Mohtasib. More often than not, the process of the enquiries resulted in the banks' agreeing with our views where the complaint was well founded and in resolving it to the complainant's satisfaction. The cases in which the Bank disagreed with our initial conclusions were put off for hearing and disposal by the Banking Mohtasib and remain pending in the meanwhile.

Administrative Expenses

Administrative expenses incurred (including provision) during the year were Rs. 41,411,703/- which compare with Rs. 39,154,331/- during 2007. All expenses are charged proportionately to banks. Apart from rent and salaries, major items of expenditure were:

- Rs. 176,000/-- advertising and publicity
- Rs. 761,604/-- travel, car rental, hotel
- Rs. 1,967,827/-- utilities
- Rs. 634,210/-- telephone and internet
- Rs. 1,009,968/-- security and janitorial services
- Rs. 1,696,166/-- general repair and computer maintenance
- Rs. 1,247,139/-- other expenses
- Rs. 1,818,502/-- prior year's expenses paid in 2008

Complaints brought forward from the previous years

As on December 31, 2007, unresolved complaints totaled 508. During the year under review, these 508 complaints were disposed off as under:-

Outstanding 31-12-2007	Rejected	Declined	Granted	Pending 31-12-2008
508	13	212	227	56

Complaints volume

There are 40 scheduled banks in Pakistan with 8164 branches throughout the country. It is noteworthy that the number of scheduled bank branches increased by 262 during the year. We receive two types of complaints:

- Informal i.e. walk in, email, copies of letters or via telephone and
- Formal written complaints after failure by banks to resolve underlying issues amicably.

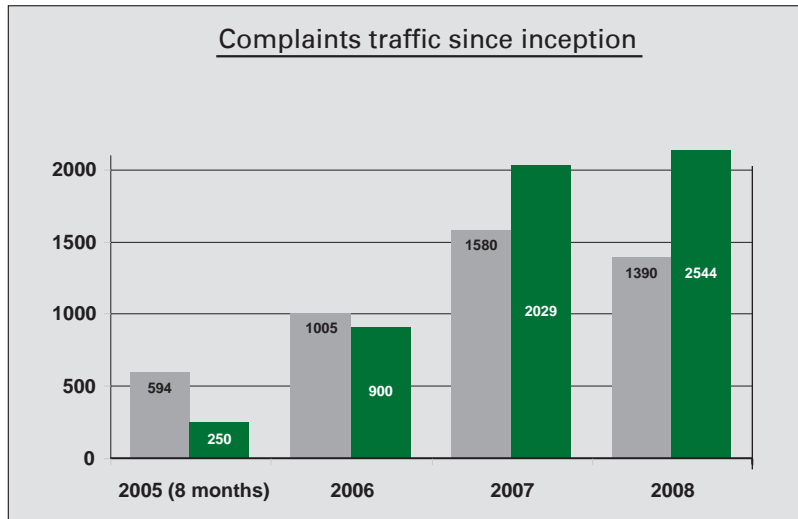
Upon receipt of informal complaints, procedural guidance is provided to complainants and where warranted, banks are informally asked to resolve the issue. During the year, 2544 such complaints were received and suitably addressed. This compares with 2029 informal complaints received during 2007. This increase shows that more complainants like to approach BMP through email or telephone rather than by formal written complaint.

However, if an informal complaint is not resolved amicably by conciliation, the law requires that the complaint must be made in writing in the manner prescribed by it.

Formal complaints received during the period were 1390 - a monthly average of over 116 - which reflects 11% decrease over the monthly average of 131 complaints during 2007.

One of the reasons for this reduction in the number of complaints received in 2008 were fewer complaints re-directed to us by the complaint cell of the SBP. The other reason is the absence of Banking Mohtasib.

The annual traffic of formal complaints (grey bar) and informal complaints (green bar) since inception of the Banking Mohtasib function is illustrated below:



Further breakup of informal complaints is given below:-

Informal Services provided to walk in complainants by our Officers	271
Complaints made to us in writing without completing prescribed legal requirements	1703
Complaints made via email	570
Total	<u>2544</u>

Following chart tabulates bank wise complaints received in descending order:-

January 1, 2008 to December 31, 2008

#	Bank	Total	Rejected	Declined	Granted	Amount claimed	Amount granted	Pending
1.	NBP	205	72	33	81	1,770,276.00	677,957.00	19
2.	SCB(P)Ltd.	179	24	38	59	2,548,886.94	6,386,061.14	58
3.	United Bank Limited	167	40	38	46	7,759,281.00	2,109,816.18	43
4.	ZTBL	113	22	45	29	659,900.00	1,059,100.00	17
5.	Habib Bank Limited	110	36	35	21	420,719.85	409,713.85	18
6.	MCB Bank Ltd.	106	29	32	26	4,468,915.00	4,305,636.07	19
7.	Bank Alfalah Limited	96	22	30	8	4,881,136.00	4,858,292.00	36
8.	ABL	82	37	16	15	1,034,780.00	664,230.00	14
9.	Citibank N.A.	63	8	19	20	325,704.00	323,484.00	16
10.	Askari Bank Limited	49	5	8	20	125,208.00	116,646.00	16
11.	RBS	49	5	13	12	146,915.00	121,191.28	19
12.	The Bank of Punjab	34	23	4	5	271,101.00	103,805.00	2
13.	NIB Bank Limited	33	10	9	4	163,515.00	53,315.00	10
14.	PPCBL	22	14	0	4	115,500.00	115,000.00	4
15.	Faysal Bank Limited	18	5	3	2	40,650.00	40,650.00	8
16.	SME Bank Limited	10	1	5	3	150,000.00	169,207.00	1
17.	Atlas Bank Limited	4	4	0	0	0.00	0.00	0
18.	FWBL	4	2	0	1	480,000.00	480,000.00	1
19.	Soneri Bank Limited	4	1	0	1	177,440.00	177,440.00	2
20.	Meezan Bank Ltd	3	0	1	1	6,000.00	4,000.00	1
21.	Mybank Limited	3	1	2	0	0.00	0.00	0
22.	DIBPL	3	1	1	0	0.00	0.00	1
23.	Bank Al Habib Ltd	2	0	0	0	0.00	0.00	2
24.	BIPL	2	0	0	2	0.00	0.00	0
25.	Samba Bank Ltd	1	1	0	0	0.00	0.00	0
26.	Arif Habib Bank Ltd.	1	1	0	0	0.00	0.00	0
27.	Habib Metropolitan	1	0	0	0	0.00	0.00	1
28.	IDBP	1	1	0	0	0.00	0.00	0
29.	KASB Bank Limited	1	0	0	0	0.00	0.00	1
30.	SPCBL	1	1	0	0	0.00	0.00	0
31.	HSBC	1	1	0	0	0.00	0.00	0
32.	Others	22	22	0	0	0.00	0.00	0
	Total	1390	389	332	360	25,545,927.79	22,175,544.52	309

No formal complaints were received against the following banks:

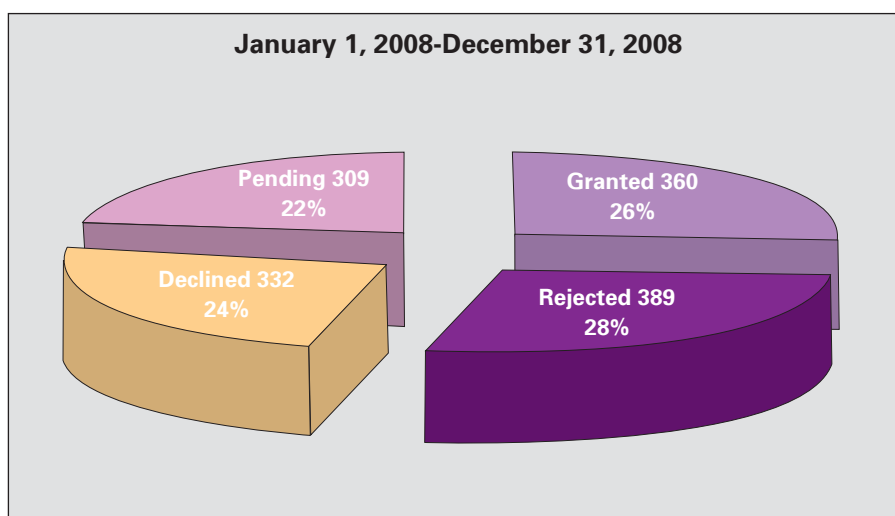
1	Albaraka Islamic Bank B.S.C. (E.C.)	6	JS Bank Limited
2	Barclays Bank	7	Oman International Bank S.A.O.G.
3	Deutsche Bank AG	8	The Bank of Khyber
4	Emirates Global Islamic Bank Limited	9	The Bank of Tokyo-Mitsubishi UFJ Ltd.
5	First Dawood Islamic Bank		

The earlier chart showing the number of complaints received against each bank could project an incorrect picture of bank efficiency; hence the following table reflects the number of complaints received against each bank according to bank size in terms of its branches.

S.No.	Bank	Complaints Received	Branches	Complaints per Branch
1.	Citibank N.A.	63	25	2.52
2.	Standard Chartered Bank (Pakistan) Limited	179	159	1.13
3.	SME Bank Limited	10	17	0.59
4.	The Royal Bank of Scotland	49	84	0.58
5.	Bank Alfalah Limited	96	218	0.44
6.	Askari Bank Limited	49	124	0.40
7.	Zarai Taraqati Bank Ltd.	113	344	0.33
8.	Dubai Islamic Bank Pakistan Limited	3	15	0.20
9.	The Hong Kong & Shanghai Banking Corporation Ltd.	1	5	0.20
10.	Atlas Bank Limited	4	22	0.18
11.	Faysal Bank Limited	18	109	0.17
12.	United Bank Limited	167	1075	0.16
13.	National Bank of Pakistan	205	1337	0.15
14.	NIB Bank Ltd.	33	224	0.15
15.	Arif Habib Bank Limited	1	7	0.14
16.	The Punjab Provincial Cooperative Bank Ltd.	22	159	0.14
17.	The Bank of Punjab	34	276	0.12
18.	MCB Bank Ltd.	106	979	0.11
19.	Allied Bank of Pakistan	82	763	0.11
20.	First Women Bank Limited	4	42	0.10
21.	Habib Bank Limited	110	1468	0.07
22.	Industrial Development Bank of Pakistan	1	19	0.05
23.	Samba Bank Limited	1	20	0.05
24.	Mybank Limited	3	61	0.05
25.	Meezan Bank Limited	3	62	0.05
26.	Soneri Bank Limited	4	118	0.03
27.	KASB Bank Limited	1	51	0.02
28.	Bank Islami Pakistan Limited	2	102	0.02
29.	Saudi Pak Commercial Bank Limited	1	55	0.02
30.	Bank Al Habib Limited	2	150	0.01
31.	Habib Metropolitan Bank Limited	1	86	0.01

The following chart followed by diagram shows the disposal status of 1390 complaints received during the year.

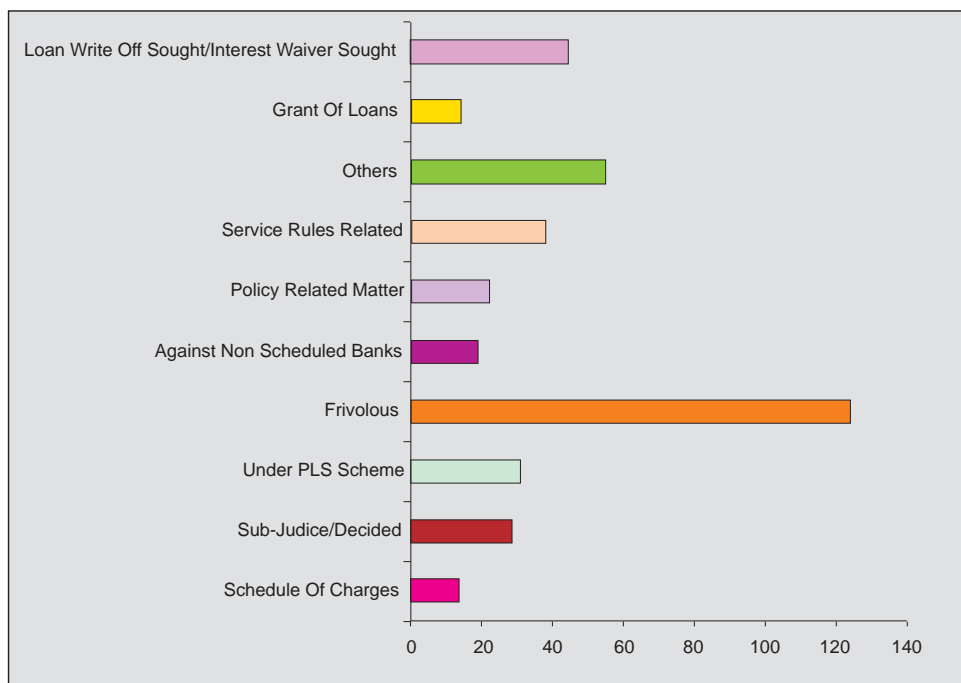
Total	Rejected	Declined	Granted	Pending 31-12-2008
1390	389	332	360	309



It will be noted that a quarter of the complaints were rejected outright which is consistent with initial estimates. Rejected complaints are those which were found to fall outside the jurisdiction conferred upon the Banking Mohtasib by law.

Reasons for Rejection	Total
Schedule Of Charges	13
Sub judice/Decided	28
Under PLS Scheme	31
Frivolous	124
Against Non Scheduled Banks	19
Policy Related Matter	22
Service Rules Related	38
Others	55
Grant Of Loans	14
Loan Write Off Sought/Interest Waiver Sought	44

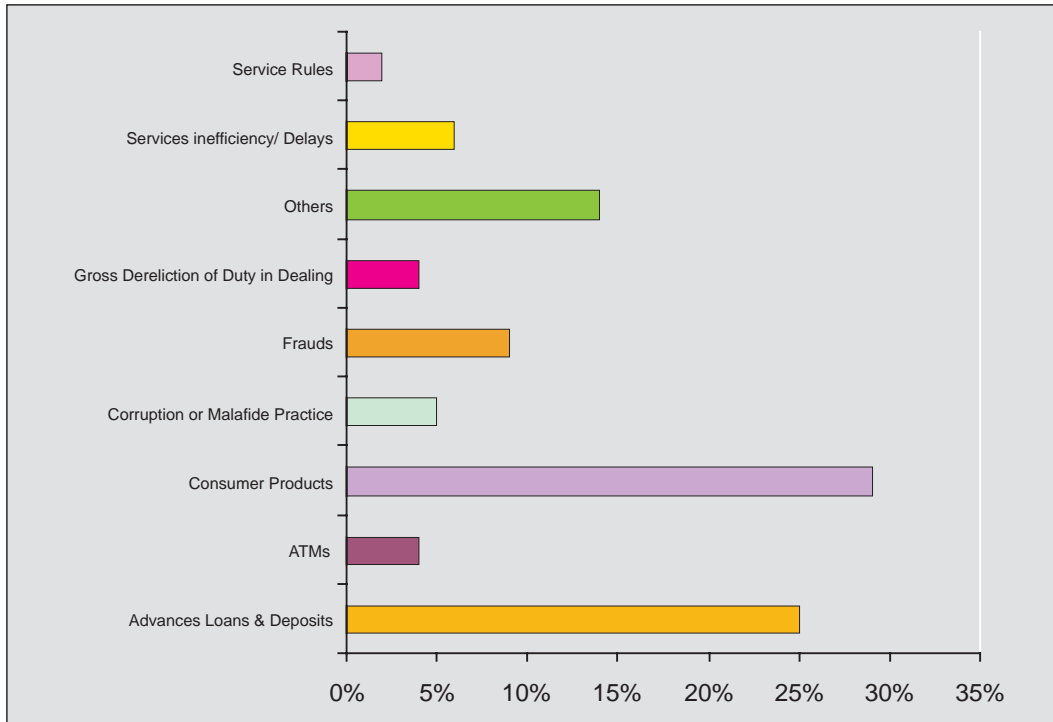
The following chart illustrates the rejection pattern of complaints by major categories.



Types of complaints received

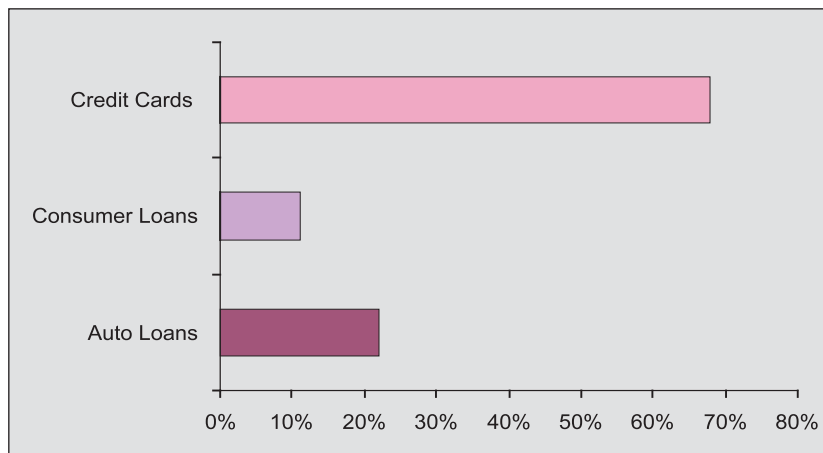
Complaints received during the period fall in the following broad categories:

S.No	Category	Number of complaints received	%
1	Advances, Loans & Deposits	351	25%
2	ATMs	53	4%
3	Consumer Products	405	29%
4	Corruption or Malafide Practice	64	5%
5	Frauds	124	9%
6	Gross Dereliction of Duty in Dealing	49	4%
7	Others	197	14%
8	Services inefficiency/ Delays	78	6%
9	Service Rules	22	2%



Consumer products complaints can be further broken down in the following major categories:

S.No	Category	Number of complaints received	%
1	Auto Loans	88	22%
2	Consumer Loans	43	11%
3	Credit Cards	274	68%



Analysis of systemic issues and some recommendations

During investigation of complaints, we occasionally come across systemic deficiencies and control weaknesses within banks. Such weaknesses are brought to the attention of senior bank management. For issues of a serious nature, a report is submitted to SBP for such action as it may consider appropriate.

During the course of investigations, we have observed some poor banking practices together with lacunas in the law and cases of non-compliance by banks of SBP's instructions. The next section brings out some of these issues for the attention of SBP so that appropriate regulatory intervention can be made.

Dishonored Cheques

A cognizable and non-bailable offence was added to the Pakistan Penal Code by the insertion of a new Section 489 F (dishonestly issuing a cheque) by Ordinance LXXXV of 2002 whereby the drawer of a dishonored cheque could be imprisoned for up to three years. The possible onerous effect of this change in the law was demonstrated by a complaint wherein a cheque of the complainant was stolen, maliciously forged for an incredibly large sum and presented to the bank with his forged signatures. The cheque was returned with the remarks "insufficient funds". The holder lodged an FIR with the Police which resulted in the arrest, detention and trial of the drawer stretching over months and eventual acquittal on the ground that the cheque had been stolen and forged in the first place.

We have two recommendations to address this issue:

- 1) Instructions be issued to all banks that when a cheque is presented the very first thing they should do is to verify the signature on the cheque. Under Section 29 B of the Negotiable Instruments Act, a forged cheque is a nullity and not a cheque at all.
- 2) The object of the amendment in the law viz: the insertion of Section 489 F can better be achieved by following the Indian example whereby, in 1988, they added Chapter XVII in their Negotiable Instruments Act entitled PENALTIES IN CASE OF DISHONOUR OF CHEQUES. Section 138 of that Chapter provides that the drawer of a dishonored cheque can be jailed for up to two years, provided that the holder of the dishonored cheque has first served upon the drawer of the cheque a notice, and the drawer has failed, without good cause, to pay the amount of the cheque to the payee within fifteen days of receipt of such notice.

Know Your Customer (KYC)

State Bank of Pakistan Prudential Regulation M-1 relates to Know Your Customer (KYC). This regulation inter alia lays down that "all possible efforts shall be made to determine true identity of every prospective customer". It also lays down that "KYC is not a one time exercise to be conducted at the time of entering into a formal relationship with customer/ account holder" rather it "is an on-going process for prudent banking practices".

It also specifies that "copies of CNIC wherever required shall invariably be verified from NADRA" but in addition, it also lays down that "Bank shall obtain satisfactory evidence with regard to true

identity of the beneficial owner of the account". It also requires banks to "undertake customer due diligence measures, including independent verification by a reliable third party, client report from the previous bank of the customer" as well as "identifying and verifying the identity of walk-in customers conducting transactions above an appropriate limit to be prescribed by the banks".

It has been observed in a large number of cases that Banks have generally failed to understand and properly communicate the spirit of the above Regulation to their field functionaries and further, Compliance Officers have also not been able to fully cascade the essence of this Regulation at the Branch level. This has resulted in a great variety of complaints arising out of frauds like stealing of cheques marked "Account's Payee Only" and opening of false bank accounts in the payees names and making off with the proceeds after clearance of the cheques.

Banks should be specifically directed once again to ensure strict compliance of KYC and cascade the requirements of proper KYC to their field functionaries in their own larger interest.

Re-Possession and Disposal of Leased Vehicles

The manner of re-possession of cars for repayment of auto loans has reached such scandalous proportions that the superior courts thought fit to repeatedly intervene on behalf of the borrowers and ultimately a full bench of the Lahore High Court struck down Section 16(3) of the Financial Institutions (Recovery of Loans) Ordinance as violative of the Constitution. Although that decision of the High Court has been suspended by the Supreme Court in a pending appeal, and the SBP has issued guidelines to the Banks in the matter, we have come across one aspect of the matter which requires the State Bank's further attention viz. the manner in which the re-possessed vehicles are disposed off. Our enquiries have revealed that all Banks sell the repossessed vehicles through bids obtained privately, although one Bank is known to have chosen a public auction as a better alternative on a few occasions.

Since a borrower can suffer a loss relative to the payments already made by him before the re-possession, and also otherwise as good public policy of transparency, we feel that it should be made mandatory for all Banks to dispose off all and every re-possessed vehicle by means of a well advertised public auction in which the borrower should also be allowed to bid.

Issuance of Credit Cards

We have come across numerous cases where Credit Cards have been issued to customers without properly assessing the credit risk and Prudent Risk Management checks as prescribed by the State Bank of Pakistan's Operational Guidelines for Credit Card Business in Pakistan particularly in Para 2.5 thereof. For example, a customer with monthly income of Rs 34,200/- or thereabout was issued credit cards by seven reputable banks and ran upto a total debt of Rs 1,269,163/- requiring immediate payment. This is perhaps the main cause of increasing rates of default and subsequent notoriety of the banks' recovery teams.

We feel that banks are not observing the guidelines of State Bank of Pakistan in all cases while issuing credit cards. We therefore, recommend that SBP consider re-emphasizing its instructions to the banks.

Some representative samples of complaints decided in the year 2008 are set forth below:

Case Study

Two remittances for NOK 621,384/- and NOK 5,378,616/- were received by an 'NGO' in November 2007 through a Bank. The beneficiary felt that the rate of exchange applied by the Bank was lower on the relevant dates. The NGO pointed out the discrepancy to the Bank and the fact that the rate offered was lesser than the Bank's own Rate Sheet for the two dates.

In response, the Bank stated that the rate sheet relied upon by the complainant was applicable only to the transactions for amounts US \$ 10,000/- or its equivalent and for higher value transactions the Bank's Treasury Department would quote the Rate to be offered. With this curious clarification, the Bank refused to pay more.

The NGO lodged a complaint with the Banking Mohtasib on June 17, 2008.

Banking Mohtasib collected from independent sources, the exchange rates prevailing on the dates of the two remittances, carried out calculations and concluded that the amount paid to the complainant was less on both the remittances than what it should have actually been.

When the Banking Mohtasib confronted the Bank with these calculations, the Bank relented and paid USD 59,999/51 more to the complainant. This sum was still incorrect and on a further intercession of the Banking Mohtasib, the Bank paid a further sum of USD 7,999/34 to the complainant.

In yet another case of similar nature against the same Bank, a person approached the Bank on July 18, 2008 to remit AUD 14,000/- from his Euro account maintained with Bank. The Bank debited Euro 8,807/40 to his account for the remittance. The complainant felt that he was overcharged and requested the Bank to refund excess amount charged. The Bank did not agree so the complainant lodged a complaint with Banking Mohtasib.

When Banking Mohtasib made calculation on the basis of prevailing exchange rates and asked the Bank to show the basis of their calculations, the Bank refunded Euro 149/80 to the complainant in the first place which was still wrong. Upon further pursuance, the Bank refunded Euro 30/10 which was still incorrect and finally on Banking Mohtasib's pursuance, another sum of Euro 42/77 was refunded.

The same customer had approached Banking Mohtasib earlier in the year 2007 and on intervention of Banking Mohtasib, the Bank had refunded Euro 175/93.

Case study

A Bank on February 13, 1995 allowed a loan for Rs. 300,000/- in the name of the complainant which increased to Rs. 641,137/- due to application of mark up.

The complainant informed the Bank that he did not apply for the loan and provided evidence that

he was not in Pakistan when the loan was disbursed but the Bank did not resolve his complaint. A complaint was then filed with Banking Mohtasib on August 21, 2006.

The Banking Mohtasib carried out investigations and concluded that:

- (i) The photograph of the complainant on his genuine NIC and the signatures were both different from the one on the NIC obtained by the Bank when the loan was allowed.
- (ii) The complainant's original Passport showed that he left for Oman on April 26, 1994 and visited Pakistan in 1996. There was no entry in the Passport to show that he came to Pakistan in 1995 when the loan was allowed by the Bank in his name.

The Bank vigorously contested the issue and argued that fake entries in the passport could have been made and that the appearance of the person changes over the years.

The Banking Mohtasib traced out a bank account with another bank through which the cheques issued by the erstwhile Bank were cleared and it transpired that the fake NIC was used to open that account also. On Banking Mohtasib's direction, the Bank withdrew the demand to the complainant to pay the loan and paid to the complainant a sum of Rs. 25,000/- as compensation for cost incurred by him.

Case study

Complainant repaid to the Bank the loan of her husband but the receipts for amount paid and the passbook of the mortgaged land were not provided to her by the Mobile Credit Officer of the Bank.

When she visited the Bank to get the Passbook of mortgaged land, she was shocked to learn that a new loan had been created on her late husband's name. She learnt that the new loan for Rs. 323,850/- was allowed on June 28, 2001 whereas her husband had died on January 20, 1999 i.e. two and a half years before the date of the loan. On her complaint the Bank's Enquiry Officer conducted an enquiry and verified the correctness of the death certificate of her husband. The Enquiry Officer appointed by the Bank visited the village graveyard, the neighbors and the Town Committee Office which had issued the death certificate and was satisfied that the complainant's husband had indeed died on the date she had said he had. In spite of the report of the bank's own Enquiry Officer, the Bank did not release the mortgaged lands and instead served a notice upon the complainant threatening to auction the mortgaged land unless she repaid the disputed loan.

The complainant made a complaint to the Wafaqi Mohtasib which was redirected to us on May 28, 2007.

In response to an enquiry by the Banking Mohtasib, the Bank argued that the complainant has produced a fictitious death certificate to avoid payment of Bank's dues outstanding against her late husband.

The Banking Mohtasib perused the reports submitted by the Bank and noted that the NIC of the

late borrower and his Pass Book had his signatures on it but the Loan Application and the Account Opening Form bore his thumb impressions.

The Banking Mohtasib then sought Hand Writing Expert's opinion on thumb impressions affixed on the two loan agreements executed by the borrower for loans allowed before and after his death. The Expert opined that the thumb impressions on the two loan agreements were not identical and had been affixed by two different persons.

The Banking Mohtasib decided that the Bank should return the pass book of the mortgaged land to the legal heirs of the deceased without demanding any amount outstanding against the bogus loan sanctioned in his name.

Case Study

Complainant's credit card was lost on 14th-15th August, 2005 and he came to know of the loss when he received a telephone call from the Bank about extra ordinary transactions carried out on the Card. He informed the Bank about the loss of Credit Card and disowned the transaction. The signature on the disputed Sales Slip differed from the ones on the Credit Card. His card also bore his photograph and the merchant had acted negligently as he neither checked the signature nor the photograph on the Card.

Bank declined payment on the ground that the Complainant had not reported the loss of Card before the disputed transactions for Rs. 10,295/- took place on August 15 & 16, 2005.

The Complainant lodged a complaint with Banking Mohtasib Pakistan on January 2, 2008.

The Banking Mohtasib examined the issue on the basis of guidelines provided in the Chargeback Guide (MasterCard Acceptance Procedure) which required the Merchants to verify signatures of Card Members at the time of the transactions and also where applicable to match the photograph on the card.

The Bank argued that compliance of the MasterCard guidance depended on the volume of card acceptance at any merchant outlet and that on high volume of card acceptance, the merchant did not necessarily validate the signature and that the Credit Card with picture of the card member only offers reduction in unauthorized transactions but can not eliminate them altogether.

The Banking Mohtasib referred to the deliberations held with the Risk Managers of various commercial banks, PBA representatives and VISA officials on June 16, 2008 at the State Bank of Pakistan in the course of which it was agreed and confirmed that according to VISA regulations concerning signature verifications, the merchant, while executing the transactions on Point of Sales machines, has to verify the signatures separately for each transaction. In case the signature did not match, the merchant had to refuse the transaction.

After protracted correspondence and series of meetings with the Banks' executives, the Bank finally reversed the disputed transactions and the charges upon them.

Case Study

Complainant stated that her husband was maintaining an account with the Bank. After the death of her husband, the complainant approached the Bank for statement of the account so that she could take necessary steps to draw the remaining amount from the account.

When she received the statement she found a transaction of Rs. 47,000/- dated November 22, 2004 which she claimed can not be genuine as her husband had died on November 13, 2000.

The Complainant requested us to get the matter investigated and help her get the entire balance lying in her deceased husband's account including the sum drawn from the account fraudulently.

The matter was duly investigated and it was found that a fraudulent withdrawal of an amount of Rs 47,000/- from the account of the deceased had taken place with the connivance of a branch official who had evidently made off with it. That official has since been dismissed and the account of the Complainant's widow has been credited with the sum wrongfully withdrawn from it.

Case Study

A Government pensioner, having account with a branch of the Bank approached Banking Mohtasib complaining that despite having furnished CZ-50 Zakat Declaration Form required under Zakat & Ushr Ordinance 1980 as far back as in year 2000 regarding non- deduction of Zakat from his Account, the Bank arbitrarily deducted Zakat amount of Rs.19,562/- from his account in the year 2005. It was ironical that on the basis of his declaration on record, no Zakat deductions were made in the years preceding or following 2005. The complainant was pursuing the matter with the Bank since early 2006 for refund of wrongfully deducted Zakat amount but to no avail, so much so that at one stage Bank advised him that although Zakat had been deducted erroneously but as the refund application has been submitted by the branch after the prescribed period of 90 days, the request for refund of the amount to the complainant has been rejected.

In May 2008, the complainant lodged his complaint.

We decided against the Bank because it was evident that the concerned officials of the Branch did not comply the standing instructions regarding non-deduction of Zakat and not only ignored CZ-50 provided by the aggrieved Account holder but also tried to shift their responsibility for the error in their own computer system as well as for delay in applying for refund on him and thus caused a loss of Rs.19,562/- to the complainant.

On our intervention, the Bank accepted the legitimacy of the claim by refunding the amount wrongly deducted from the complainant. The Bank was also advised to settle customer complaints within a reasonable time.

Case Study

Complainant stated that he had lost Rupee Traveler Cheques (RTCs) valuing Rs.200,000/- at Karachi on December 11, 2006. The purchase was made from one of the Bank at Sargodha. He immediately

reported the loss at one of the branch of the Bank in Karachi but the RTCs were paid in clearing on December 13, 2006. Upon his claiming refund, Bank advised him to lodge an FIR against collecting bank and the beneficiary before his claim could be considered. The complainant lodged "Kucha Roznamcha" on December 13, 2006 and handed over copy to the Bank.

The Bank rejected the claim upon the ground that the complainant had not signed the RTCs at the time of issuance and because the RTC sale agreement read that "the Bank shall not be required to stop payment of any Travelers Cheques for any reason."

After hearing the Bank and considering the documentary evidence, the Banking Mohtasib concluded that the Bank was liable for negligence because:

- a. The clause in the RTC agreement that the Bank would not be required to stop payment of any RTC was contradicted by the same agreement providing for refund of lost or stolen RTCs.
- b. When issuing blank RTCs to the Complainant, it is obligatory on the part of issuer to ensure that each and every RTC is signed by purchaser in his presence and Bank neglected or failed to do so.
- c. The Bank encashed reportedly lost RTCs in spite of receipt of loss notice from the purchaser prior to date of payment due to ineffective internal control system i.e. timely circulation of lost bulletins through its network which enabled the third party to receive the proceeds of said RTCs.

The complainant was also liable for contributory negligence for not ensuring that he signed the RTCs. Therefore, the responsibility was apportioned between both the parties and a higher proportion of responsibility for the loss was placed upon the Bank. The Bank was thus directed to share 75 % of loss and pay Rs.150,000/- to the complainant. It was also asked to pursue the FIR with law enforcing agency and to make payment of the remaining Rs.50,000/- to the complainant in case of recovery made by the police at any later time.

Case Study

The complainant from Faisalabad maintaining their account with the Bank claimed refund of an amount of Rs. 1,603,523/75 debited to their account by the Bank which was earlier credited after negotiating their export documents. Due to non- receipt of export proceeds from LC opening as bank, the bank reversed the entry and recovered the amount from the account of the complainant which triggered resentment for lodging complaint with us.

On enquiry, the Bank argued that the complainant being their valued client all along had been offered preferred services keeping in view their financial and market status. The Bank negotiated the export bill even against expired LC and afforded credit against discrepant documents.

The Bank also did not obtain indemnity from the customer as surety for repatriation of funds. Under Article 13 of UCP 500, it is the duty of the banks to examine all the documents stipulated

in LC with reasonable care to ascertain whether or not they appear to be in compliance with the LC, (the foremost requirement being whether the LC is valid) which Bank chose to ignore.

On the other hand, there were reasons to believe that the complainant were fully aware of the fact that Bank is extending extra favour by negotiating export documents against expired LC for which the complainant as per UCP 500 was contractually responsible to obtain subsequent amendment for extension of shipment date from their principal which they neglected to do.

In the light of circumstances, there were two reasons which provided credence that Bank alone was not entirely responsible, one being that the complainant definitely approached the Bank having full knowledge that the LC it was asking the bank to negotiate had expired, and the second that the complainant was in a position to initiate proceedings against the importer in the appropriate jurisdiction for the unpaid value of the goods but the Bank obviously had no recourse available to it. However, as the Bank, on its part, had knowingly accepted the expired LC for negotiation to please its valued client, without obtaining an indemnity, the Banking Mohtasib felt that both parties contributed to the loss.

Accordingly, it was ordered that the complainant should bear a major portion of the loss itself and the Bank be held accountable only for 25% of the loss suffered. The Bank was therefore ordered to credit the complainant's account by Rs. 400,881/- being 25% of the amount with which their account was debited.

Contact

All complaints will be addressed to the Karachi Secretariat where the complaints handling process has been centralized.

Should you require information or have any enquiries please email us at:
Info@banking mohtasib.gov.pk

You may also write to us at the Karachi Secretariat for information or enquiries.

Detailed information is also available at our website: www.bankingmohtasib.gov.pk

Addresses and contact numbers of all our offices are given below:

Karachi Secretariat

Banking Mohtasib Pakistan Secretariat

5th Floor, Shaheen Complex

M .R. Kiyani Road

P.O. Box 604, Karachi

Telephone : 99217334 to 39 (6 lines)

Facsimile : 99217375

Email : info@banking mohtasib.gov.pk

Website : www.bankingmohtasib.gov.pk

Lahore Regional Office

Office of the Banking Mohtasib Pakistan
C/o SBP Banking Services Corporation
Shahrah-e-Quaid-e-Azam, Lahore

Telephone : 99210444

Facsimile : 99210421

Quetta Regional Office

Office of the Banking Mohtasib Pakistan
C/o SBP Banking Services Corporation
Shahrah-e-Abbasi, Quetta

Telephone : 99203144

Facsimile : 99203145

Peshawar Regional Office

Office of the Banking Mohtasib Pakistan
C/o SBP Banking Services Corporation
Saddar Road, Peshawar

Telephone : 99213438

Facsimile : 99213439

Rawalpindi Office

Office of the Banking Mohtasib Pakistan
C/o SBP Banking Services Corporation
The Mall, Rawalpindi

Telephone : 99273252

Facsimile : 99273253

We function as
a closely-knit team
and take
collective
responsibility
for individual
decision making

