



**bankenschlichtung  
oesterreich**  
**Gemeinsame Schlichtungsstelle  
der Österreichischen Kreditwirtschaft**

1045 Wien, Wiedner Hauptstraße 63  
Telefon +43 (1) 505 42 98  
Fax +43 (0)590900-118337  
E-Mail: [office@bankenschlichtung.at](mailto:office@bankenschlichtung.at)  
Internet: [www.bankenschlichtung.at](http://www.bankenschlichtung.at)

# ***Joint Conciliation Board of the Austrian Banking Industry***

## ***Questions and Answers***

# Q&As

## 1. What is the Joint Conciliation Board of the Austrian Banking Industry?

The Joint Conciliation Board of the Austrian Banking Industry (JCBABI) is an **institution for the out-of-court settlement of disputes** relating to obligations within the scope of a **banking transaction** pursuant to sec. 1 Austrian Banking Act (BWG) between **consumers** residing in Austria or in any other signatory state that is party to the Agreement on the European Economic Area and a credit institution based in Austria or any other institution mentioned in sec. 1 Austrian Banking Act (BWG). The provisions set forth by the Austrian Alternative Dispute Resolution Act (AStG) ("ADR office" pursuant to sec. 4[1][5] AStG) apply. The JCBABI is competent to handle complaints filed by persons that do **not qualify as consumers** to the extent that an EU directive or a law – such as the Payment Services Act – provide for conflict resolution regardless of the petitioner's consumers standing.

The JCBABI is part of the Division Bank and Insurance at the Austrian Federal Economic Chamber and consists of an independent and autonomous mediator (ombudsperson) and the secretariat of the Conciliation Board.

## 2. Who currently holds the office of ombudsperson (mediator)?

The incumbent ombudsperson is Head of Directorate General Prof. Dr. **Gerhard HOPF**, ret'd. He is trained as a judge and last served as head of the directorate general in charge of civil law matters at the Austrian Federal Ministry of Justice until the end of 2007.

## 3. How do I file a complaint?

Quite a number of disputes or mere misunderstandings can be mutually resolved in **direct communication with a bank**. Therefore, whenever you are dissatisfied with a service or product, we advise you to contact your bank first. The rules of procedure followed by the JCBABI provide that you **first attempt to reach** an agreement with the bank concerned. Only if any such efforts prove ineffective, can conciliation proceedings be instigated.

## 4. What can I complain about?

- In particular, the JCBABI is responsible for disputes arising out of any of the **following business transactions involving a consumer**:
- transactions relating to a savings account/deposit account;
  - domestic and cross-border payment transfers;

- opening, change and closure of accounts;
  - credit agreements;
  - how ownership savings contracts;
  - investment business;
  - real estate fund transactions;
  - foreign exchange transactions
  - securities issuing business;
  - transactions relating to securities accounts;
  - securities transactions.
- According to the rules of procedure, the JCBABI does not have the jurisdiction to handle disputes arising out of **foreign currency loans**. The association '*Schlichtung für Verbrauchergeschäfte*' is responsible for these in accordance with sec. 4(1)(8) Austrian Alternative Dispute Resolution Act (AStG).

## 5. Is there any obligation to initiate conciliation proceedings or take part in such proceedings?

Proceedings are **on a voluntary basis** both for the petitioner and for the bank. Either party is entitled to discontinue proceedings at any stage.

## 6. Which banks subscribe to the Conciliation Board?

Generally, the JCBABI has the jurisdiction to handle complaints relating to **all banks** authorised to conduct banking business in accordance with sec. 1 Austrian Banking Act. A complaint lodged with the JCBABI is forwarded to the relevant bank along with a request asking it **to declare whether it intends to take part in the conciliation proceedings**. For conciliation proceedings to be initiated, the relevant bank must agree to take part.

## 7. How about complaints regarding foreign institutions?

If the complaint relates to an institution that is not authorised to conduct banking business in Austria, i.e. foreign banks without any domestic license, the JCBABI will seek to find a competent complaints and conciliation agency or any other partner for the petitioner and establish initial contact.

## 8. When does the ombudsperson refuse a complaint?

The ombudsperson refuses to accept a complaint when

- the JCBABI is not responsible;
- a final decision has previously been issued or a settlement has previously been reached in court or if proceedings are pending at a court;
- the petitioner is unable to credibly demonstrate that it has tried to reach an agreement with the respondent;
- the complaint is malicious or vexatious;
- the petitioner refuses to sign a relief from banking secrecy
- handling of the dispute would seriously impair the effective operation of the Conciliation Board.

## 9. What must my complaint include?

The complaint must include:

- petitioner's name and address and of the bank concerned;
- a brief description of the situation constituting the object of dispute;
- a justification for the disputed claim;
- a proposal for a solution sought by the petitioner; and
- a statement declaring that the petitioner has previously attempted to find a solution in direct contact with the bank.

In addition, appropriate documents (contracts, correspondence with the bank or other offices already dealing with the complaint) for the conciliation proceedings must be provided.

## 10. How relevant is banking secrecy and privacy?

In order to conduct conciliation proceedings, banking secrecy, which is under special protection in Austria, and privacy need to be warranted, requiring **petitioners to submit a declaration**: petitioners must **relieve** the bank which is subject to a complaint **from banking secrecy** in dealings with the Conciliation Board and consent to the **use of its data**.

In so doing, the petitioner permits the bank concerned to disclose the banking data and documents to the JCBABI needed for the proceedings, on the one hand, and the Conciliation Board to use the personal data relevant to the proceedings within the scope of the conciliation proceedings, on the other.

For this declaration, the JCBABI requires the petitioner's own, original signature (account holder). The declaration must be sent to JCBABI **by post**.

The ombudsperson and all JCBABI staff are bound to keep confidential in dealings with third parties all facts that are entrusted to them or that they become cognizant of in the course of conciliation proceedings. They are obliged to treat as confidential all documents drafted or provided to them in the course of the proceedings.

## 11. To whom do I address my complaint?

The complaint can be sent by e-mail, fax or regular post to:

Joint Conciliation Board of the Austrian Banking  
Wiedner Hauptstraße 63  
A-1045 Vienna, Austria  
by fax: +43 (0)590900-118837  
by e-mail: [office@bankenschlichtung.at](mailto:office@bankenschlichtung.at)

## 12. What procedure do conciliation proceedings follow?

Conciliation proceedings are conducted in accordance with the JCBABI's **rules of procedure**. These are available on the JCBABI website at [www.bankenschlichtung.at](http://www.bankenschlichtung.at) (also to download); on request, a hardcopy can be sent by regular mail.

### ➤ **Initiating proceedings**

Proceedings are initiated once the JCBABI receives the complaint (the request for conciliation). The complaint and all documents may be submitted electronically or otherwise in writing (by fax or regular post). Proceedings are held in German; if need be, proceedings for cross-border disputes can be held in English.



### ➤ **Examining the complaint**

The ombudsperson verifies whether the subject matter of the complaint falls within the jurisdiction of the Conciliation Board. If the ombudsperson decides that he/she is not competent or if one of the grounds for refusal set forth in section 8 are applicable, he/she will end the proceedings and inform the petitioner. In all other cases, he/she will continue with the proceedings.

### ➤ **Continuing with the proceedings**

If the complaint is deemed admissible, the ombudsperson will inform the petitioner about the further procedure to be followed and request submission of the statement declaring relief from banking secrecy and the consent for use of the data. Once the JCBABI receives this declaration, the complaint is forwarded to the bank along with the declaration. The bank is asked to inform the ombudsperson within four weeks whether it intends to take part in the proceedings. If the bank declares its intention to take part, it is required to provide a response to the complaint. If the bank informs the ombudsperson that it does not intend to take part in the proceedings or if it does not respond at all, the ombudsperson will end the conciliatory proceedings and inform the petitioner thereof.

The bank's response to the complaint is transmitted to the petitioner by the JCBABI for information purposes and for the petitioner to respond in its turn within the reasonable period set by the ombudsperson. Subsequently, such an opportunity to respond is provided every time either side submits a new argument.

➤ **Proposed solution**

The purpose of the conciliation proceedings is to help the petitioner and the bank reach an amicable settlement of the conflict between them.

In the process, the ombudsperson can solicit information that is conducive to the resolution of the conflict, hear persons with information, peruse documents and invite the parties to the dispute individually to a settlement consultation or jointly to a conciliation hearing.

If the dispute cannot be resolved in any other manner, the ombudsperson is free to present the parties to the dispute with a specific proposal for the settlement of the dispute. This proposal must be within the limits of the law.

The ombudsperson sends this proposal to the parties to the dispute by e-mail, fax or regular post.

Either party can then agree with or reject the proposed solution. The ombudsperson informs the respective other party of any statements made by either party with regard to the proposed solution.

➤ **Ending proceedings**

The ombudsperson can end the conciliation proceedings with the proposed solution.

He/she may also end the proceedings if any of the grounds of refusal set forth under section 8 arises, any one of the parties to the dispute declares that it does not wish to continue with the proceedings, or if the attempt to reach a settlement is otherwise unsuccessful.

On proposing a solution or ending proceedings in any other manner, the ombudsperson informs the parties to the dispute of the option to take the matter to court.

### 13. How long do proceedings take?

The law provides that the outcome of the proceedings must be presented to the dispute parties **within 90 days** from receipt of the full complaint, i.e. including all documents required for handling the case. In case of highly complex complaints, the ombudsperson has the discretion to **extend** this period. He/she is obliged to inform the parties to the dispute of any such extension.

### 14. How do the conciliation proceedings affect the statutes of limitation for claims?

The submission of a complaint and due continuation of conciliation proceedings **suspend the beginning and the running of the limitation period** as well as any other time periods applicable for the assertion of the rights and claims affected by proceedings.

## 15. Are proceedings confidential?

- Proceedings are not public. All inquiries and complaints are kept **confidential**.
- The parties to the dispute, their representatives and all other persons taking part in the proceedings are **barred from going public with** the subject matter and the content of the conciliation proceedings while proceedings are ongoing and thereafter or to seek **media coverage** thereof.
- The mediator and all JCBABI staff are bound to **keep confidential** in dealings with third parties all facts they become cognizant of in the course of the conciliation proceedings.

## 16. What do conciliation proceedings cost?

For you, taking part in proceedings of the Conciliation Board is **free of charge**.

Any costs and expenses otherwise incurred by the conciliation proceedings, particularly the costs for representation and advice, if any, must be paid by each party to the dispute respectively.

**The Joint Conciliation Board of the Austrian Banking Industry is happy to answer any further inquiries..**

Joint Conciliation Board of the Austrian Banking Industry  
1045 Vienna, Wiedner Hauptstraße 63  
[www.bankenschlichtung.at](http://www.bankenschlichtung.at)  
E-mail: [office@bankenschlichtung.at](mailto:office@bankenschlichtung.at)  
Tel: +43/1/505 42 98  
Fax: +43(0)590900-118337

## **Disclosure in compliance with sec. 25 Austrian Media Act**

Joint Conciliation Board of the Austrian Banking Industry  
set up by Austrian Federal Economic Chamber

**Owned and published by**  
**Austrian Federal Economic Chamber**  
**Registered office**

- Address: Wiedner Hauptstraße 63, A-1045 Vienna
- Telephone: +43 (0)5 90 900
- Fax: +43 (0)5 90 900 5678
- E-mail: [office@wko.at](mailto:office@wko.at)

Authorised to represent the Austrian Federal Economic Chamber (WKO)  
**President:** Dr. Harald Mahrer

### **Responsibilities**

Representation of interests as well as provision of information, advice and support to individual members as statutory representative of their interests; in particular, through out-of-court mediation in the event of disputes between banks, capital investment companies as well as payment institutions and their customers by an independent ombudsperson within the scope of the Joint Conciliation Board of the Austrian Banking Industry.

### **Purpose of the website (policy)**

Information about the responsibilities, organisation and activities of the Joint Conciliation Board of the Austrian Banking Industry.

**Issue: September 2018**