

Pursuant to Article 16, related to the Article 5, Paragraph 1, Item j of the Law on Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 59/13 and 4/17), and Article 162, Paragraph 9 of the Banking Law of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 04/17), and Article 19, Item h of the Statute of Banking Agency of Republika Srpska (“Official Gazette of Republika Srpska”, No.: 63/17), the Management Board of the Banking Agency of Republika Srpska, on its session held on 25 July, 2017 issued the

RULES

on acting of the Ombudsman of the banking system of Republika Srpska upon notification or complaint of financial service beneficiaries

I – GENERAL PROVISIONS

Article 1

These Rules shall stipulate the conditions and manner of acting of the Ombudsman of the banking system of Republika Srpska (hereinafter: Ombudsman) upon notification or complaint of financial service beneficiary (hereinafter: beneficiary), if a financial organization of the banking system of Republika Srpska (hereinafter: service provider) failed to provide a written response to the beneficiary’s complaint within the deadline defined by the law or the by-laws of the Banking Agency of Republika Srpska (hereinafter: Agency), i.e. if the beneficiary is not satisfied with the response of the service provider or other outcome of the procedure upon complaint filed against the service provider in accordance with the law or the Agency’s by-laws.

Article 2

- (1) The banking system of Republika Srpska comprises of financial organizations as stipulated by the Law on Banking Agency of Republika Srpska.
- (2) Apart from beneficiary’s notification or complaint, the Ombudsman shall consider notifications or complaints of other individuals which, according to the law or other regulation, have right to file a complaint against the service provider and to the Ombudsman.

II – BENEFICIARIES’ RIGHT TO NOTIFICATION AND COMPLAINT

Article 3

If the service provider failed to respond to the beneficiary’s written complaint within 30 days from the date of complaint submission or if the beneficiary is unsatisfied with the response of the service provider or other outcome of a procedure conducted upon complaint filed against the service provider, he/she has right to inform in writing and file a written complaint to the Ombudsman, in accordance with the conditions as defined by the law or the Agency’s by-laws.

Article 4

- (1) Written notification or complaint of beneficiary referred to in previous Article must contain:
 - first and last name of the beneficiary, place of residence and address, first and last name of a legal representative or beneficiary’s proxy and place of residence and address of that person, telephone number or information relating to other means of communication with the beneficiary or his/her representative or proxy (telefax, e-mail and similar),
 - business name, headquarters and address of the service provider and its organizational part, for whose acting the beneficiary is filing a complaint,

- complete and accurate description of dispute, including time and place of its occurrence,
 - beneficiary's signature, i.e. his/her representative or proxy.
- (2) Along with a written notification and/or complaint referred to in the Previous Paragraph, the beneficiary shall also submit:
 - copy of contract concluded with the service provider for whose acting the beneficiary files a complaint, if possible,
 - copy of other documentation relating to the conditions of financial service usage, if possible,
 - a complaint submitted to the service provider,
 - the response of service provider to the beneficiary's complaint, if such is delivered to the beneficiary and
 - available evidence proving the stated and factual state described in the notification, i.e. complaint.
 - (3) If a written notification or complaint of the beneficiary contains no data referred to in Paragraph 1 of this Article or if the beneficiary failed to deliver attachments referred to in Paragraph 2 of this Article, the Ombudsman shall instruct the beneficiary to, within 15 days from the date of instruction issuance, put them in appropriate order or deliver other explanations, supplements and evidence (possibly about original or transcript verified by the competent body), if required for correct and complete assessment of justification of notification or complaint of the beneficiary.
 - (4) If the beneficiary fails to do as stated in the previous Paragraph, the Ombudsman shall by means of response inform and explain to the beneficiary about non-acceptance of such submission.
 - (5) The beneficiary's proxy shall submit original authorization for representation (power of attorney) of the beneficiary on whose behalf he/she is submitting the notification or complaint or copy of authorization verified by the competent body.

Article 5

A written beneficiary's notification or complaint can be submitted directly or by post to the Agency's address, telefax or by means of an electronic mail to the appropriate Agency's address.

Article 6

- (1) Exempt from the provisions of Article 3 of these Rules, if the beneficiary, without prior submission of a written complaint to the service provider, informs in writing or files a complaint to the Agency, i.e. the Ombudsman, such submission shall not be considered and shall be immediately delivered to the service provider for consideration and delivering response to the beneficiary, in accordance with the law and the Agency's by-laws.
- (2) If the right to notification or complaint is being misused in any way or is being used contrary to stipulated purpose or if the complaint is unjustified, untimely, not allowed or submitted by unauthorized person, or if the Ombudsman is not authorized to act upon the complaint, the Ombudsman shall inform the beneficiary by means of explanation on the non-acceptance of such submission.

III – ACTING UPON NOTIFICATION OR COMPLAINT OF THE BENEFICIARY

Article 7

- (1) After receiving and based on the assessment of justification of a beneficiary's written notification or complaint, the Ombudsman shall by means of a letter request from the service provider a written statement regarding what has been written in the beneficiary's

notification, i.e. complaint .

- (2) The service provider shall, within 15 (fifteen) days from the date of receipt of Ombudsman's letter, make a statement on what has been written in the beneficiary's notification, i.e. complaint, and deliver evidence proving what has been written in the statement.
- (3) If required for the assessment of justification of the beneficiary's complaint and discussing dispute, the Ombudsman may request additional clarifications, supplements and evidence from the service provider, which shall be obliged to act upon this request within 8 days from the date of request receipt.
- (4) Depending on circumstances of each individual case, the Ombudsman may provide simpler and brief notifications to the service provider or request from it clarifications and notifications over the phone or in another manner which enables more efficient and economic acting upon the beneficiary's notification or complaint.

Article 8

The service provider's statement must include: dispute description, the assessment of justification of complaint stating the provisions of regulation or contacts based on which the assessment was conducted, potential reasons due to which the dispute occurred and requested answers to the questions from the Ombudsman's letter.

Article 9

- (1) If the Ombudsman, based on the facts and circumstances from a beneficiary's written notification, i.e. complaint and the service provider's statement and evidence collected, assesses that for resolving the procedure upon the beneficiary's notification or complaint, it is not required to mediate between the beneficiary and the service provider or that the initiation of such procedure is not possible or purposefully due to other reasons, he/she shall, within 60 days from the date of receipt of the service provider's statement, inform the beneficiary in writing on the service provider's statement and possible proposal of options for possible dispute resolutions, if the service provider made such proposal, and depending on the subject of dispute and according to the needs, and shall deliver to he/she findings upon the complaint, appropriate recommendations or opinions.
- (2) Along with the response, copies of the letter on requesting statement from the service provider and letter including the service provider's statement can also be delivered to the complaint applicant, if not stipulated otherwise by law, or if not requested otherwise due to public interest.

IV – PROCEDURE OF MEDIATION IN PEACEFUL SETTLEMENT OF DISPUTE

Mediation proposal

Article 10

- (1) When the beneficiary or provider of service request proposal of mediation in peaceful settlement of dispute (hereinafter: mediation), the Ombudsman shall immediately deliver it to the counterparty and request in writing that party's consent for initiation of such procedure.
- (2) If the counterparty agrees in writing with the mediation proposal, the Ombudsman shall in writing inform the parties on the place, date and hour of mediation meeting.
- (3) If the party that received the mediation proposal, within 15 days from the date of receipt or other deadline stated in the proposal, and which cannot be shorter than 8 days, fails to make a statement on the proposal, it shall be deemed that the mediation proposal is rejected.

Article 11

- (1) It shall be deemed that the party which proposes, i.e. which in writing agrees with the mediation proposal, accepts provisions of these Rules.
- (2) The mediation proposal form is an integral part of these Rules.

Mediation proposal principles

Article 12

Equality – parties involved in the mediation procedure shall have equal rights.

Volunteering – beneficiary and service provider initiate the mediation procedure and participate in the procedure and achieving mutually acceptable agreement on a voluntarily basis.

Confidentiality – statements, proposals and information relating to the mediation procedure must be used as evidence in any other procedure, unless the parties agreed otherwise, or if stipulated otherwise by the law, or if the stated is necessary for the application and implementation of the settlement agreement, as well as when required due to public interest. In the mediation procedure the public is excluded, and the participation of third parties is allowed with explicit consent of the parties.

Informality – In general, mediation is being conducted in a manner in which the parties reached an agreement, provided that their agreement must not be contrary to enforcement regulation or these Rules.

Procedure participants

Article 13

- (1) In the mediation procedure, parties are individuals who are beneficiaries of financial services, i.e. other individuals who, according to the law or other regulation, have a right to complaint against the service provider and to the Ombudsman, and service providers – financial organizations of the banking system of Republika Srpska.
- (2) Other authorized persons with expert skills and mediators may appear as participants in the mediation procedure.
- (3) In the mediation procedure, parties may be represented by their legal representatives or proxies who shall submit appropriate decision or authorization to represent (power of attorney) at the first meeting.

Procedure costs

Article 14

Mediation procedure before the Ombudsman is free of charge for parties, who shall be charged only for material costs of procedure (travel expenses, court expert remuneration, court expertise remuneration, perks and remuneration costs of mediators and similar).

Procedure

Article 15

- (1) The Ombudsman shall mediate in neutral and unbiased manner in the course of whole procedure, in terms of parties and in terms of dispute subject, and shall provide no promises, nor shall guarantee a certain procedure outcome.
- (2) The Ombudsman cannot impose on the parties a peaceful dispute settlement.

Article 16

- (1) Parties shall be obliged to timely deliver to the Ombudsman all relevant documentation related to the dispute subject.
- (2) Parties' participation in the procedure shall be obligatory.

Article 17

- (1) The Ombudsman shall be obliged to conduct the mediation procedure without stalling.
- (2) The mediation procedure should be finalized within 60 days from the date of procedure initiation.

Article 18

- (1) The mediation procedure shall be initiated by a written contract on mediation, which shall be signed by the parties at the first mediation meeting.
- (2) After signing the contract on mediation, the Ombudsman shall briefly inform parties on objectives and rules of procedure that shall be conducted, the Ombudsman's position, as well as parties' position in the procedure.

Article 19

- (1) In the course of mediation procedure, the Ombudsman may hold separate meetings with each party individually.
- (2) Information submitted to the Ombudsman at separate meetings, he/she shall treat as confidential and shall not discuss them with the other party, unless agreed otherwise.
- (3) Upon the party's request, stated in a separate meeting, the Ombudsman may present option proposal, but not the solution.

Article 20

- (1) When parties in the mediation procedure discuss and resolve the dispute, they shall draft and sign the settlement agreement.
- (2) The settlement agreement, that the parties achieve in the mediation procedure and draft in writing, shall have the power of an executive document.
- (3) Upon the parties' request, the Ombudsman shall participate in agreement drafting.

Article 21

- (1) In the course of whole mediation procedure, each party may drop out from the mediation proposal, at any moment.
- (2) If in the mediation procedure more parties are involved, the mediation procedure shall be continued with the remaining parties.
- (3) The Ombudsman may suspend the mediation procedure if he/she assesses that further acting in the procedure and effort to achieve a peaceful dispute settlement is not purposeful usually after the parties were given an opportunity to make a statement thereof.
- (4) The mediation procedure may be suspended if the settlement agreement is not reached within 60 days after the signing of contract on mediation, provided that this deadline, upon the proposal of each party, may be prolonged by parties' agreement.

Article 22

Written or oral statement by the party on dropping out from further mediation procedure, i.e. the Ombudsman's assessment that a further procedure is not purposeful, the Ombudsman shall define in a form of a separate enactment.

Article 23

The finalization of mediation procedure shall be determined, depending on case circumstances, in the minutes drafted by the Ombudsman and signed by the parties, i.e. in a written note in the case file.

Article 24

- (1) With the parties' consent, the mediation procedure may be terminated for the purpose of collecting appropriate evidence, expert opinion or official view related to the dispute or due to other justified reasons.
- (2) The Ombudsman shall terminate the mediation procedure if there are, or in the course of procedure occur reasons which prevent him/her from being neutral and unbiased.
- (3) A written note in the case file shall be drafted on the procedure termination, and terminated mediation procedure shall continue upon the proposal of any party or the Ombudsman.
- (4) The Ombudsman shall define the date and place of continuation of mediation procedure in the parties' agreement.

Article 25

Initiation and conducting procedure upon beneficiary's notification or complaint, as well as mediation procedure between the beneficiary and the service provider, shall not exclude nor affect the fulfilment of their rights to legal protection, in accordance with the law.

V - TRANSITIONAL AND FINAL PROVISIONS

Article 26

- (1) Procedures initiated until the date of these Rules coming into force, in accordance with regulation governing business operations of banks, micro-credit organizations, leasing providers and other financial organizations of the banking system of Republika Srpska, shall continue under procedure as defined in these Rules.
- (2) On the date of these Rules coming into force, the Rules on acting of the Ombudsman for the banking system of Republika Srpska upon notification or complaint of financial service beneficiary ("Official Gazette of RS", No.: 111/11) shall cease to be applied.

Article 27

These Rules shall come into force on the 8th day after their publication in the "Official Gazette of Republika Srpska".

Number: UO-291/17

Date: 25 July, 2017

PRESIDENT OF THE
MANAGEMENT
BOARD
Mira Bjelac

PROPOSAL
FOR MEDIATION IN PEACEFUL DISPUTE SETTLEMENT

1. First and last name, address / Business name and proposer's headquarters

Contact person

Contact phone number

2. First and last name, address / Business name and headquarters of counterparty in dispute

Contact phone number

3. Dispute subject (*Describe dispute in question*)

ATTACHMENT:

1	
2	
3	
4	
5	
6	

I deliver this proposal to the Ombudsman for the banking system within the Banking Agency of Republika Srpska for the purpose of deliverance thereof to the counterparty and further acting.

Place: _____

Date: _____

SIGNATURE

Note: This document is drafted solely for the purpose of mediation procedure and shall be treated as confidential.