



PERFORMANCE REPORT

**INDEPENDENT DIVISION OF THE
OMBUDSMAN FOR THE BANKING
SYSTEM**

for the period 01.01.-31.12.2015

Sarajevo, January 2016

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I. INTRODUCTION

The Ombudsman for the banking system of the Federation of Bosnia and Herzegovina (hereinafter: the Ombudsman) submits a Performance Report for the period 01.01.-31.12.2015 to the Parliament of the Federation of B&H via the Government of the Federation of B&H and the Board of Directors of the Banking Agency of the FB&H, pursuant to Article 4f. of the Law on Banking Agency of the Federation of Bosnia and Herzegovina („Official Gazette of the Federation of B&H“, No. 9/96, 27/98, 20/00, 45/00, 58/02, 13/03, 19/03, 47/06, 59/06, 48/08, 34/12, 77/12) and the Decision of the Board of Directors of the Banking Agency of the FB&H, No: U.O.-56-16/14 from 18.03.2014 on the appointment of the Ombudsman.

The Performance Report provides an overview of:

- Activities to realise the Ombudsman's Work Plan for 2015;
- Activities to implement the protection of users and guarantors through the application of the Law on Guarantor Protection and the Law on Protection of Users of Financial Services;
- Statistical data on the Ombudsman's work for the reporting period;
- A statistical summary of complaints/requests from users and guarantors upon which the Ombudsman acted as well as the manner of resolution;
- Recommendations and opinions issued to financial institutions for resolving disputes with users and guarantors;
- The Ombudsman's observations and opinions in connection with the rights and obligations of users of financial services.

The report contains statistical data, measures and activities taken by the Ombudsman to protect users of financial services and aims to inform Parliament of the FB&H, the Government of the FB&H, the FBA's Board of Directors, as well as other entities of all the difficulties, problems and irregularities users of financial services face when exercising their rights in relation to financial institutions.

The presented data indicate difficulties in exercising the rights of users, as well as in the communication with financial institutions, especially in the area of non-transparent operations.

II. PLAN COMMITMENTS AND FORMS OF WORK OF THE OMBUDSMAN

The Ombudsman began operations in April 2014. The establishment of the Ombudsman as an autonomous and independent division introduced the protection of the rights of users of financial services in the manner in which it is present in neighbouring countries and the region, and the user as an important entity on the market received institutionalised protection.

Statistical data on the number of received complaints/requests in 2015, compared to the previous reporting period, are an indication that users are informed of the existence of the Ombudsman and that there is great interest in their disputes being resolved by agreement in out-of-court proceedings with financial institutions. Users have recognised that long court proceedings do not lead to the resolution of their problems with financial institutions and that the out-of-court proceedings conducted by the Ombudsman should be used.

2.1. Activities to Realise the Ombudsman's Work Plan for 2015

The Work Plan for 2015 outlines the key tasks and defines the key activities of the Ombudsman, which is primarily based on the implementation of the Law in the area of protecting users of financial services and guarantors as well as on the provisions stipulated by the Law on the Banking Agency, Art. 4 (a, b, c, d, e, f, g, h) and by-laws.

The aforementioned by-laws, the Code of Conduct of the Ombudsman for the Banking System of the FB&H („Official Gazette of the Federation of B&H“, No. 62/14), the Decision on Conditions and Manner of Customer Complaint Management in Banks, Microcredit Organisations and Leasing Companies („Official Gazette of the Federation of B&H“, No. 23/14, 26/14 and 62/14) and the Decision on Conditions and Manner of Handling Guarantors' Requests for Release from Guarantor's Obligation („Official Gazette of the Federation of B&H“, No. 23/14, 26/14 and 62/14) regulate the procedure of contacting the Ombudsman, the rules and the process of mediation.

In 2015, the Ombudsman performed the following activities:

- Receiving users and guarantors in official premises as well as providing advice in order to protect their rights, instructions and opinions;
- Receiving phone calls from users;
- Receiving and filing complaints/requests from users and guarantors;
- Conducting investigative proceedings and dispute resolution upon complaints from users and guarantors;
- Cooperation with Banking Agency divisions, information exchange, and improvement of secondary legislation;
- Monitoring the implementation of the new legislation, the Law on Protection of Users of Financial Services, the Law on Guarantor Protection and insisting on the harmonisation of legislation and banking practices of financial institutions in the area of protecting users of financial services in order to improve the protection of users' rights;
- Cooperating with other entities in the area of user protection (the Ombudsman for Consumer Protection of B&H, judicial authorities, non-governmental sector) in order to improve the protection of users' rights;
- Increasing users' awareness through information brochures published in print media and on the Agency's website;

- Submitting Recommendations to financial institutions related to improving customer relations, applying best business practices and resolving individual disputes between users/guarantors and financial institutions;
- Considering guarantors' requests for release from the guarantor's obligation, conducting investigative proceedings and submitting Recommendations to the competent department of the Agency for the purpose of making a final Decision upon the guarantors' requests.

2.2. Proceedings and Powers of the Ombudsman

The Ombudsman conducts proceedings in accordance with the Law on Banking Agency of the FB&H and secondary legislation. The proceedings have several characteristics that are defined by the law and by regulations:

1. The Ombudsman acts as an independent organisational unit and is autonomous in carrying out their tasks.
2. Users of financial services and guarantors can contact the Ombudsman free of charge and without special formalities for the protection of their rights.
3. The Ombudsman conducts proceedings with respect to users' complaints, requests and notices in accordance with the rules of out-of-court proceedings, indicates the rights and obligations of users and financial institutions in their mutual relations, seeks the elimination of irregularities and shortcomings, proposes mediation in disputes or a change in actions that led to the violation of a user's certain right.
4. The Ombudsman has no authority to amend or annul the decisions of courts and other competent authorities or to take measures and adopt binding decisions toward financial institutions due to illegal operations or erroneous practices.
5. The Ombudsman's activities are conducted via recommendations, suggestions, opinions and initiatives, which are individual or general in nature and which have no enforcement power with respect to financial institutions.

Out-of-court proceedings are one of the ways to protect the rights of users of financial services and guarantors, and the proceedings can be initiated by a user or guarantor when they are of the opinion that the financial institution is not complying with the provisions of the law, the concluded contract or some other regulation. The user initiates these proceedings by submitting a notice in written form to the Ombudsman when they believe that their rights have been violated by an act, action or inaction of the financial institution.

The user can contact the Ombudsman only if they have used proceedings to protect their rights in internal proceedings with the financial institution, i.e. if they contacted the financial institution from which they received a response they are not satisfied with or if they received no response.

The responsibility of the user and guarantor is to, along with the complaint/notice, submit documentation proving the allegations from the complaint/request submitted to the Ombudsman.

The Ombudsman conducts investigative proceedings upon receiving the complaint/request after previously determining that the user has used the legal protection in internal proceedings and received a statement from the financial institution to which the complaint refers.

In out-of-court proceedings or in the resolution of a dispute between the user and the financial institution, the Ombudsman can:

- Propose mediation between the parties involved in the dispute.
- Make a recommendation to the financial institution that, in order to resolve the dispute, it amend the act, take actions or correct the shortcomings that caused the dispute between the user/guarantor and the financial institution.
- Advise the user about ending the dispute.
- Express opinions and views on the dispute and the manner of resolving it, which are to be submitted in the form of a recommendation to all parties involved in said dispute.

Initiating proceedings before the Ombudsman does not prevent the user or guarantor from initiating proceedings to protect their rights before a court or other competent authorities on the basis of the same subject matter and grounds.

In accordance with the statutory powers contained in the Law on Banking Agency of the FB&H and secondary legislation, the Ombudsman may suspend initiated out-of-court proceedings when:

- It is determined that the financial institution has eliminated the shortcoming to which the complaint/request to the Ombudsman referred;
- The user or guarantor drops the complaint/request, fails to submit the required documentation or withdraws the request;
- It is determined that court proceedings are being conducted on the same grounds..

2.3. The Ombudsman's Recommendations and Opinions

The Ombudsman, in accordance with legal authority, has the right to give recommendations, views, guidelines and opinions to financial institutions in order to improve the relationship between the user/guarantor and the financial institution on the basis of findings and information gathered in the proceedings they are conducting upon notices/complaints or requests.

The recommendations refer primarily to improving the relationship with the user, the application of good business practices, internal acts and resolving individual disputes between users/guarantors and financial institutions.

Seeing how the Ombudsman has no authority to adopt formal legally binding decisions, in cases when they determine that violations of the rights of the user/guarantor have been caused by the illegal or negligent actions of the financial institutions, the Ombudsman forwards the case to the competent Agency sector for the purpose of taking adequate accountability measures.

III. ACTIVITIES TO IMPLEMENT LEGAL FRAMEWORKS PROTECTING USERS AND GUARANTORS

3.1 Law on Protection of Users of Financial Services

The Law on Protection of Users of Financial Services has been in force since November 2014. This Law represents the adoption of legislation harmonised with EU standards, i.e. Directive 2008/48/EC.

The Law elevates relations between the user and provider of financial services to a higher level of mutual trust, while competition between financial institutions is becoming more dynamic in terms of honouring users' requests for greater transparency of financial institutions' business operations. By prescribing the protection of users of financial services, the Law provides for and regulates the content of loan agreements and other services of financial institutions, informing users in the pre-contracting stage by way of an information sheet, the right to withdraw, „cooling-off“ after signing the contract without penal provisions.

The Law clearly defines the concept of a variable interest rate, which is primarily to achieve a higher level of transparency and user protection. The key information for users is the availability of information on the trends of variable parameters and the effective interest rate, expressed as an annual percentage, and includes all loan-related costs.

Following the entry into force of the Law on Protection of Users of Financial Services, the Ombudsman requested from several financial institutions that they submit internal acts and procedures in order to determine whether they comply with the provisions of the Law. It was found that the financial institutions had harmonised their operations with the provisions of the Law, and a special act was recommended to the financial institutions in the interest of making available to users information regarding all rights and obligations prescribed by the Law.

It can be concluded that the situation in the area of protecting users and guarantors improved significantly in 2014 and 2015 compared to previous years, especially in the period of credit expansion from 2005 to 2009. There are positive trends in financial institutions in the area of protecting users of financial services, which is supported by the fact that the Ombudsman received a very small number of complaints/requests related to the operations and actions of financial institutions from transactions concluded in 2014.

3.2. Law on Guarantor Protection in the FB&H

There are many difficulties in the implementation of the Law on Guarantor Protection, because the aforementioned is vague and incomplete. Furthermore, the Law is contradictory to a number of systemic laws, the Law on Obligations and other systemic regulations pertaining to civil law, the Law on Banks, the Law on Banking Agency, etc. Due to the aforementioned, the Agency, immediately after the entry into force of the Law, issued the Recommendations No.: 01-615/14 from 21.02.2014, which relate to the application of the Law and which were forwarded to all banks, MCOs and leasing companies seated in the Federation of B&H. The aim of the Recommendations was to facilitate these institutions' operations in the area of working with guarantors and harmonise their actions with the Law to the greatest extent possible.

Due to a series of legal technical shortcomings and ambiguities of the Law, which prevent and hinder its application, the Agency addressed the Parliament – the Legislative and Legal Commission of the House of Representatives of the Parliament of the FB&H (hereinafter: the Commission) on 21.02.2014 in the interest of an authentic interpretation of certain provisions of the Law. However, the Parliament has never provided an authentic interpretation of the provisions of the Law.

The Ombudsman acts upon guarantor complaints in accordance with Article 24 of the Law or in accordance with the Agency's by-laws and the Code of Conduct of the Ombudsman, in accordance with which the scope of work and competences of the Ombudsman was expanded (not only under Art. 24 of the Law, but also in the implementation of the investigative proceedings upon filed requests for release from the guarantor's obligation in conjunction with Article 30 of the Law).

Regardless of all the activities undertaken in order to ensure as efficient an implementation of the Law as possible, it must be noted that many uncertainties still remain in practice, and they are mostly reflected in the following:

- The law opens up two possibilities for release from guarantorship – a court judgment or a decision of the Agency. Guarantors are aware of the obstacles to filing complaints in court (long-term proceedings, costs, etc.), which is why they turn to the Agency/Ombudsman with a request for release from guarantorship. Given that the Law has in effect rendered equal the investigative proceedings applied by the Agency or the Ombudsman and judicial litigation, with those two practices being significantly different (the Agency issues a Decision without the right to appeal/complaint, while the court reaches a verdict that can be appealed against in a higher court), it has put guarantors at a disadvantage.

As a consequence of the aforementioned, it can be assumed that, in the period to come, courts will have a large caseload of administrative disputes with respect to the Agency's decisions.

Furthermore, in the proceedings of the Agency and the Ombudsman, a hearing for the parties is not provided for, so that the right to a fair hearing of guarantors turning to the Agency, rather than the court is violated, with this being one of the fundamental rights guaranteed by the Constitution:

- a problem in terms of guarantors' requests for release from the guarantor's obligation, which is the result of contracts concluded prior to the entry into force of the Law from the standpoint of the Law's retroactivity, in the manner prescribed by the Law;
- the unclear relationship of the Law with the Law on Protection of Users of Financial Services, due to the many overlaps as well as due to differences in terms of the categories of persons/entities being protected (protection of legal entities).

In order to protect users (including guarantors), the Ombudsman made information available on the Agency's website, with it being divided into segments that relate to general information, the manner of filing a complaint, instructions for applicable regulations (laws and by-laws), as well as frequently asked questions.

IV. THE OMBUDSMAN'S COOPERATION WITH THE BANKING AGENCY OF THE FB&H, THE CENTRAL BANK OF B&H, THE BANKS ASSOCIATION OF B&H AND FINANCIAL INSTITUTIONS

4.1. Cooperation with the Competent Sectors of the Banking Agency of the FB&H

In the reporting period, the Ombudsman, together with the relevant sectors of the Banking Agency of the FB&H, continuously cooperated and participated in the sessions of the Committee for Case Supervision – supervisory reports related to the control of financial institutions and their compliance with the provisions of the Law on Protection of Users of Financial Services and the Law on Guarantor Protection.

The exchange of information with relevant sectors of the Agency has been present since the start of the Ombudsman's operations, and individual complaints/requests that point to possible violations of certain rights of users by financial institutions are submitted to relevant sectors of the Agency for review and for taking certain measures that fall into supervisory competences.

The Ombudsman has participated in the drafting of the Agency's secondary legislation (Decisions) and Instructions for the Conduct of Financial Institutions in accordance with the Law on the Guarantor Protection and the Law on the Protection of Users of Financial Services. The gist of the issued Instructions is that the status of all persons guaranteeing compliance with the obligations of the principal debtor shall be defined in the contract, i.e. that they must be familiarised with their rights and obligations and their status clearly indicated (guarantor, co-debtor) in terms of their protection.

4.2. Cooperation with the Central Bank of B&H

At a joint meeting with representatives of the Banking Agency of the FB&H in the Central Bank of B&H, proposals and suggestions regarding the introduction of a Central Credit Registry for natural persons and categories of co-borrowers were presented with a view to improving the Central Credit Registry and improving the situation in the area of protecting users of financial services.

4.3. The Ombudsman's Cooperation with the Banks Association of B&H

In the reporting period, the Ombudsman has established contact and cooperation with the Banks Association of B&H, and, upon being invited, attended discussion meetings of bank representatives on specialised committees of the Association.

4.4. The Ombudsman's Cooperation with Financial Institutions

In accordance with the Work Plan for 2015 and legislation, the Ombudsman continued to cooperate with financial institutions in order to more effectively deal with the complaints/requests of users and guarantors, as well as with problems and difficulties in exercising their rights.

In addition to resolving individual complaints/requests of users, the contact was aimed at:

- Strengthening mutual cooperation and successful resolution of complaints,
- Improving the protection of users and guarantors through the introduction of new approaches in the manner of dispute resolution.

The Ombudsman has informed the directors of individual banks, as well as their associates, employees responsible for the management of complaints from users and guarantors, about

the gist and the dispute referred to in individual complaints, and demanded that all cases submitted to the Ombudsman be signed by the director or at least one of the executive directors of financial institutions.

V. RECORDS ON VISITS AND OTHER ACTIVITIES OF THE OMBUDSMAN

One of the important activities of the Ombudsman is focused on cooperation with institutions in the region that deal with issues related to the protection of consumers and users of financial services as well education through specialised seminars in that area.

In the reporting period, cooperation and education were achieved in the following ways:

- Participation in an educational training – seminar organised by the Faculty of Economics, University of Sarajevo on „Currency Clauses in Loan Agreements“, the issue of CHF loans, March 2015.
- Internal workshop – Presentation of regulatory requirements and supervisory experience in the area of corporate governance, organised by the Banking Agencies of the FB&H and RS, February 2015.
- Specialist seminar – educational training on „BILLS OF EXCHANGE – Legislation“, issues and case law.
- Lecture held for B&H judges and prosecutors – organised by the CEST (Centre for the Education of Judges and Prosecutors – Centar za edukaciju sudija i tužilaca) on „The Position and Role of the Ombudsman for the Banking System of the FB&H“, with reference to the Law on Protection of Users of Financial Services and the Law on Guarantor Protection, banking and finance project – EBRD (European Bank for Reconstruction and Development), April 2015.
- Work study visit to the office of the Banking Ombudsman of Montenegro – Podgorica, 13-14 May 2015 – work experience and practical advice.
- Participation in the session of the Government of the FB&H, Performance Report of the Agency and the Ombudsman, 2 June 2015.
- Participation in the XIII International Conference „Current Civil and Commercial Legislation and Legal Practice“, organised by the University of Mostar, Faculty of Law, Neum, June 2015.
- Work study visit to the office of Ombudsman for Consumer Protection in B&H, 25 June 2015 – work experience and practical advice.
- Participation in the international conference of financial Ombudsmen „INFO-FINE“, Helsinki – Finland, 13-16 September.

Information for users and guarantors, reports and press releases as well as other important information about the activities and operations of the Ombudsman is published on the website of the Banking Agency of the FB&H www.fba.ba.

Educational material containing information for users (including guarantors) on how to exercise their rights in the interest of a better understanding of the subject matter related to lending (contracts, security instruments, manner of protection, etc.) is also published on the website. This material will be available to users in the form of brochures, both in the Agency and in financial institutions.

On the Agency's website, users and guarantors can regularly monitor information on all issues the Ombudsman deals with.

VI. OVERVIEW OF COMPLAINTS/REQUESTS SUBMITTED TO THE OMBUDSMAN

6.1. Records on Received Complaints/Requests of Users and Guarantors

The Ombudsman maintains records of users and guarantors who have established contact, submitted complaints and processed proceedings by stage, as well as the names of financial institutions to which the complaint/request refers, while also stating the essence of the dispute and manner of resolution.

6.2. Statistical Data on the Ombudsman's Performance

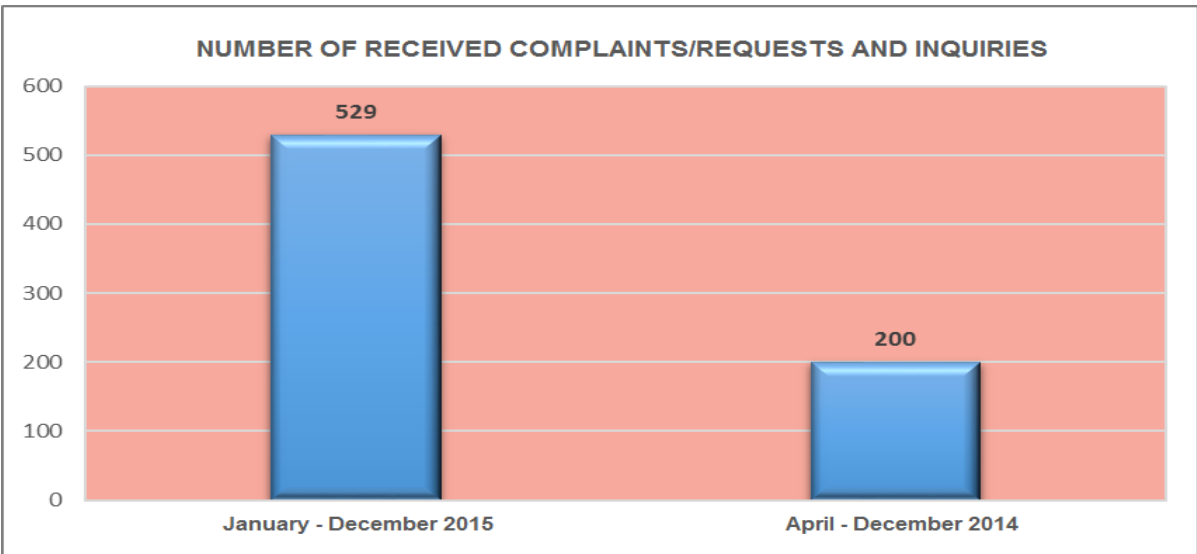
Users and guarantors have also contacted the Ombudsman in the following ways: visits, phone calls, e-mail and mail.

When it comes to users who have submitted a complaint/request for the protection of their rights, there has been regular communication with the Division of the Ombudsman, in written or oral form, in order to provide information about the course of the proceedings.

In the reporting period, the Ombudsman received 529 complaints/requests and inquiries, 96 of which were individual requests of a similar nature from borrowers with loans in CHF. Compared to the previous reporting period April – December 2014 (200), it is evident that the number of complaints and submissions to the Ombudsman has increased. The reason for the increase are the effects of the users and guarantors' awareness of the forms of protection of their rights, as well as awareness of non-judicial protection and the institute of the Ombudsman.

Graph 1 shows the structure of the total number of received complaints/requests in the period January – December 2015 and a comparison with the previous reporting period April – December 2014.

Graph 1 – Total Number of Received Complaints/Requests in 2014 and 2015



6.3 Structure of Complaints/Requests by Submitter

According to the submitter structure of the complaints/requests, there were 386 users, 88 guarantors, 6 co-debtors and 49 users not in a loan relationship, but using a service of the financial institution.

Table 1 – Overview of Total Number of Complaints by Submitter Structure in 2014 and 2015

Submitter	April-December 2014	January-December 2015
Total complaints	200	529
users	160	386
guarantors	31	88
co-debtors	3	6
other	6	49

6.4. Structure by Financial Institution

Out of the total number of cases (529), 413 referred to banks, 68 to microcredit organisations and 5 to leasing companies, 32 to other institutions with inquiries and requests and 11 to legal entities, which were forwarded to the competent legal sector of the Banking Agency.

Table 2 shows the total number of complaints/requests by financial institution expressed as a percentage.

Table 2 – Complaints/Requests by Financial Institution

Financial institution	Number of complaints/requests	%
Banks	413	78.07%
MCOs	68	12.85%
Leasing companies	5	0.95%
Other institutions	32	6.05%
Competent FBA	11	2.08%
TOTAL	529	

The largest number of complaints/requests referred to the operations and conduct of a bank to which complaints of users and guarantors of CHF loans referred.

The Ombudsman was contacted via individual complaints/requests by a number of users of financial services, with a request for category change in the Central Credit Registry regarding loans they had, according to the complaints/requests, paid off. Considering that the complaints at hand were assessed to be founded in the investigative proceedings before the Ombudsman,

a Recommendation was issued to accurately maintain and update data and report to the Central Registry of the CBBH.

Complaints/requests regarding the conduct of leasing companies did not have significant occurrences, apart from complaints referring to the company HETA d.o.o., which is neither a financial institution nor is it under the Agency's supervision. It should be noted that HETA d.o.o., by declaring that it is not obliged to submit a statement to the Ombudsman as well as that it is not a financial institution, interferes with and threatens the recognised and already acquired rights of users of financial services and guarantors of leasing arrangements, which have been granted to them under the applicable legislation (the right to file a complaint/request to the Ombudsman). Such a manner of conduct leads to unjust results, puts customers at a disadvantage and is inappropriate in terms of the rules of good business practices.

6.5. Structure of Complaints/Requests by Type of Financial Product

The complaints/requests submitted to the Ombudsman refer mainly to loan arrangements concluded in the period from 2005 to 2009. There is a predominance of complaints regarding loans, as a banking product, microloans, as well as products such as cards, deposit accounts and fees the financial institutions charge customers with for the provision of their services.

Table 3 provides an overview of the structure of complaints/requests by type of financial product.

Table 3 – Complaints/Requests by Type of Financial Product

Types of financial services	Number	%
CHF loans	96	39.51%
Request for release from guarantor's obligation	38	15.64%
CRC records	26	10.70%
Variable interest rate	21	8.64%
Court proceedings	15	6.17%
Fees for early settlement of obligations	14	5.76%
Commission and other fees	10	4.12%
Card business	9	3.70%
Interest calculation	6	2.47%
Rescheduling of obligations and moratoriums	8	3.29%
Other	0	0.00%
TOTAL	243	

6.6 Resolving Complaints/Requests

Out of the total number of complaints/requests received in 2015 (529), 436 have been resolved and 93 are in the process of being resolved.

Table 4 provides an overview of pending and completed proceedings of the Ombudsman in the reporting period January – December 2015.

Table 4 – Overview of Pending and Completed Proceedings

Total	Completed	Pending
529	436	93

436 completed proceedings:

- **27 Recommendations** upon the request for release from the guarantor's obligation (20 unfounded and 7 founded),
- **27 Recommendations and opinions** issued to financial institutions for corrections and improvement in business operations (17 accepted and 10 not accepted),
- **110 Founded** – resolved in internal proceedings with the financial institution
- **30 Positively** resolved,
- **205 Unfounded** with a recommendation and opinion of the Ombudsman

(26 complaints referred to other institutions with inquiries and requests, 11 complaints of legal entities, which have been forwarded to the competent legal sector of the Banking Agency of the FB&H).

6.7. Other Forms of Contacting the Ombudsman

In the reporting period, the Ombudsman was contacted in **oral form (phone, visit, etc.) by 250 users and guarantors.**

The questions the Ombudsman was most frequently asked by users and guarantors referred to the forms of protection and the institutions of protection of users, as well as to proceedings in non-judicial protection:

- The Ombudsman's jurisdiction;
- Out-of-court protection proceedings, mediation in a dispute;
- Proceedings, deadlines and manner of conduct of the Ombudsman in the protection of users' rights;
- The process of filing a complaint/request for the protection of rights;
- The possibility of the protection of rights with other institutions and entities;
- How to be released from the guarantor's obligation;
- Implementation of the Law.

VII. RECOMMENDATIONS TO FINANCIAL INSTITUTIONS

7.1 Guarantors

The Ombudsman gave recommendations to financial institutions and insisted on a better understanding of the economic situation of users and their guarantors, in which they found themselves due to the changed conditions that are the result of the economic and financial crisis, as well as a more comprehensive consideration of the essence of the dispute arising from the complaints of users and guarantors, which referred to difficulties in terms of loan repayment.

Financial institutions have been asked to request forcible collection from guarantors after having previously exhausted all measures of forcible collection from the principal debtor and security instruments that are in place under the contract, and to not make it more difficult or impossible for guarantors to exercise the basic rights they are granted under applicable legislation.

7.2. CHF Loans

The complaints/requests of borrowers with loans in CHF show that, from the moment of taking out a loan to the date of contacting the Ombudsman, most of them were put in a situation where their level of personal income significantly exceeded the statutory minimum for the suspension amount by loan installment, which further burdens the existence of users and the members of their common household.

Since the bank marked each individual user complaint as unfounded in the internal proceedings before the Ombudsman, emphasised that it is in the stage of court decisions on user complaints, and did not submit a proposal for mediation, the Ombudsman, in accordance with their legal competences, issued a Recommendation to the bank and insisted on a better understanding of the economic situation of users and their guarantors, in which they found themselves due to the changed conditions that are the result of the economic and financial crisis, as well as a more comprehensive consideration of the problems from user complaints/requests, which refer to difficulties in terms of loan repayment. Due to the recent increase in the CHF, it is necessary to make the bank's offers transparent in the form of facilities for users, enable the user to form their own request in accordance with their financial ability, reduce interest and the total costs borne by the user, and avoid any forcible collection from the guarantor, mortgages and liens that additionally burden the user's livelihood.

7.3. Variable Interest Rate

Individual banks were also recommended to review their business operations with contracts concluded with an administratively variable interest rate, undetermined and undeterminable, which points to the internal regulations of financial institutions.

Financial institutions were recommended to harmonise their business operations with the provisions of the Law on Protection of Users of Financial Services in the case of loan arrangements concluded in such a manner, so that the interest rate, if it is variable, must depend on an objective element, transparently disclosed and available to users, and not on some future uncertain situation (the financial situation of a counterparty – bank), which puts the user at a disadvantage and cannot be considered the agreed upon will of the user.

7.4. Conducting Internal Proceedings in Financial Institutions

It was especially noted that most financial institutions do not conduct internal proceedings upon a client's complaint as prescribed by the Law on Protection of Users of Financial Services and the regulations of the Banking Agency of the FB&H, in such a manner that the essence of the dispute is stated, along with an explanation of the reason for a positive or negative decision and regulations on which the answer is based.

Some banks do not respect the obligation to, within 30 days of the submission of the user or guarantor complaint, conduct and finalise internal proceedings and submit the decision on the outcome of the proceedings to the user or guarantor in written form. Most often, the complaint is assessed as unfounded in the internal proceedings of financial institutions, leading to all these complaints spilling into second instance proceedings before the Ombudsman.

Often, individual complaints the financial institution assessed as unfounded in internal proceedings, end with a proposal to settle the dispute and a positive outcome of the proceedings in the proceedings before the Ombudsman.

For all these reasons it is necessary and recommended that financial institutions responsibly lead the internal proceedings upon complaints/requests of users and guarantors, which implies a comprehensive approach, a professional attitude of employees with the aim of finding a solution to the dispute.

VIII. CONCLUSION

Based on the presented data, it can be concluded that the number of users and guarantors who have submitted a complaint/request makes up a significant sample, the analysis of which may lead to relevant statements and proposals in order to improve mutual relations and achieve a higher level of respect and protection of the rights of users of financial services.

1. The most numerous complaints are those stemming from transactions concluded between users and financial institutions in the period from 2005 to 2009.
2. In this period of credit expansion, financial institutions have liberalised criteria in the interest of better positioning on the market and higher profit, which resulted in many people becoming borrowers and guarantors for others.
3. The economic and financial crisis had a very negative effect on a large number of users, which exacerbated their status and the possibility of loan repayment. In such a situation, financial institutions have tried to ensure loan repayment and mitigate the negative effects via collection from guarantors and loan security instruments.
4. A large number of court cases have been started, along with time-consuming proceedings that have largely resulted in collection from property and personal income of already heavily indebted users and guarantors. All the disorganisation of the system has come to light through the court proceedings, as has already been mentioned in the period from 2005 to 2009 up to the adoption of the Law in the area of protecting users and guarantors.
5. A significant number of users and guarantors filed unfounded requests for the protection of their rights, which indicates a need to increase the citizens' level of financial education.
6. A large number of complaints submitted to the Ombudsman have already been the subject of discussion on the same grounds or a final decision of the court has been made upon the aforementioned, due to which the proceedings before the Ombudsman as out-of-court proceedings lose their purpose. The aforementioned indicates a need for the Ombudsman to be given the opportunity to, upon the user's request and through the authority that is already conducting the proceedings, submit an opinion, regardless of the type or degree of the proceedings that are in progress before that authority.
7. The Ombudsman's recommendations require the financial institutions to increase the level of protection of users and guarantors, with the recommendations primarily being related to transparent business operations, improving management in customer relations, strengthening business policy in this area, procedures and standards of business operations.
8. In 2015, the situation in the area of protecting users and guarantors improved compared to previous years, especially compared to the period of credit expansion. That there are positive trends in the area of protecting users can be supported by the fact that a very small number of user and guarantor complaints regarding agreements concluded in 2014 and 2015 was submitted to the Ombudsman.
9. It is expected that the new legislation, the implementation of which began in 2014, will raise the level of protection of users and guarantors to a much higher level than the one today.

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