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Financial Dispute Resolution Network (FIN-NET): the Greek Membership

Dr. Thomas Papadopoulos, DPhil(Oxford)

Attorney at law(Greece),

Vis. Researcher, Harvard Law School

FIN-NET

FIN-NET is a financial dispute resolution network of national out-of-court complaint schemes in the European Economic Area countries (the European Union Member States plus Iceland, Liechtenstein and Norway) that are responsible for handling disputes between consumers and financial services providers, i.e. banks, insurance companies, investment firms and others. This network was launched by the European Commission in 2001.

FIN-NET

Within FIN-NET, the schemes cooperate to provide consumers with easy access to out-of-court complaint procedures in cross-border cases. If a consumer in one country has a dispute with a financial services provider from another country, FIN-NET members will put the consumer in touch with the relevant out-of-court complaint scheme and provide the necessary information about it.

How to use FIN-NET?

Out-of-court complaint schemes normally cover service providers which operate in and from the country where the scheme exists. This means that if a consumer complains about a foreign financial services provider, his/her complaint will normally be handled by a complaint body which operates in the country where the financial services provider is located.

How to use FIN-NET?

A consumer having a complaint against a financial services provider located in another country may:

A) Use the FIN-NET website to identify the relevant out-of court complaint scheme in the country of the financial services provider and contact that body directly.

B) Contact the out-of-court complaint scheme in his/her home country, which will help to identify the relevant complaint scheme in the country of the financial services provider and will give all the necessary information about the scheme and its complaints procedure. If a consumer decides to file a complaint, he/she can leave it with the FIN-NET member in his/her country, which will transfer it to the relevant scheme in the service provider's country. In some cases it might be more efficient for a consumer to contact the relevant scheme directly, and in these cases the FIN-NET member in his home country will suggest him/her to do so. Once the competent scheme has received the complaint, it will try to resolve the dispute according to its rules and taking into account the Commission Recommendation 98/257/EC on principles applicable to bodies responsible for out-of-court settlement of consumer disputes.

How to use FIN-NET?

FIN-NET schemes aim to give consumers the possibility to make their cross-border complaints at least in the language of their financial contract or in the language in which they have normally dealt with their financial services provider. Many schemes work in other languages as well.

Members of FIN-NET

Members of FIN-NET are linked through a Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services in the European Economic Area, which outlines the mechanisms and other conditions according to which members of FIN-NET shall cooperate in order to facilitate out-of-court settlement of cross-border disputes. Access to this memorandum is open to any scheme which is responsible for out-of-court settlement of disputes between consumers and service providers in the area of financial services provided that it complies with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes: independence, transparency, adversarial procedure, effectiveness, legality, liberty and representation.

Adherence to this Recommendation is particularly important since the structure, nature and competence of different FIN-NET members vary. Even the schemes within a single country can take different forms in different sectors.

Currently FIN-NET has 46 members from 21 European Economic Area countries (the European Union Member States plus Iceland, Liechtenstein and Norway).

The Greek Membership

A) Hellenic Ombudsman for Banking – Investment Services (H.O.B.I.S.)

Financial institutions covered: securities intermediaries, most banks, most investment providers, some investment intermediaries, some pension providers

Financial products covered: payments, deposits, credit & loans, securities, most investments, some pensions.

B) Directorate of Insurance Enterprises and Actuaries of the Greek Ministry of Development

Financial institutions covered: insurance companies, insurance intermediaries

Financial products covered: life/non-life insurance

The **Hellenic Ombudsman for Banking-Investment Services (H.O.B.I.S.)** is a private, non-profit entity which was set up on July 1, 2005, following the merger of the Banking Ombudsman and the Investment Ombudsman. It considers **fairly, impartially and openly**, disputes arising from the provision of banking and investment services, aiming at their amicable settlement.

Hellenic Ombudsman for Banking- Investment Services (H.O.B.I.S.)

H.O.B.I.S. was set up within the framework of the corporate social responsibility actions taken by the banking and investment services providers which have adopted on a voluntary basis, and beyond their legal obligations, various rules of conduct. As a manifestation of banks' and investment service providers' social responsibility with respect to their customer relations, resorting to the Ombudsman promotes their good image while enabling consumers to use an independent, experienced and trusted body to resolve disputes in a simple, fast and cost-free manner.

Hellenic Ombudsman for Banking- Investment Services (H.O.B.I.S.)

In reaching its conclusions, besides taking into consideration current legislation, H.O.B.I.S. seeks to ensure that the principles of fair treatment, equity, mutuality and consistent conduct by banking and investment service providers are upheld, respecting the general principle of good will, as well as the welfare and protection of consumers and the response they anticipate to the trust they have placed in its mediation.

Hellenic Ombudsman for Banking- Investment Services (H.O.B.I.S.)

H.O.B.I.S. endeavors to find solutions that serve the wider interests of the parties involved and avoid the hassle of judicial proceedings. This process is more likely to lead to consensus that will be observed willingly by both sides and secure an amicable and stronger relationship between them. It is also more likely to keep the dispute out of the public arena. A further advantage, on a wider social level, is that H.O.B.I.S.' mediation helps reduce congestion at courts and leads to savings thanks to the fact that legal costs are avoided. H.O.B.I.S. is committed to treating both consumer and provider equitably, approaching the essence of the issues involved and adhering to the principles of fairness and leniency in resolving individual disputes, in the light of the particular circumstances of each case.

Hellenic Ombudsman for Banking- Investment Services (H.O.B.I.S.)

The procedures are executed in writing and in confidence, and are an informal alternative to judicial proceedings. H.O.B.I.S.' recommendations are accompanied by supporting rationale. H.O.B.I.S services are also provided free of charge to consumers. Overall, they are marked by frankness, speed and transparency.

H.O.B.I.S. seek to deploy as flexible and practical approaches as possible to the process of resolving disputes, using the tools that seem most appropriate to each case (mediation, amicable settlement, proposal for a compromise settlement, recommendation). H.O.B.I.S. ability to resolve disputes (mainly through mediation and amicable settlement rather than through recommendations) has enhanced its efficiency , so that most disputes are resolved on an informal basis . Moreover, note that 67,34% of disputes were resolved in favor of consumers.

Who can the Hellenic Ombudsman for Banking-Investment Services help?

Consumers, professionals and small enterprises (annual turnover of less than € 1 million) conducting businesses with banks, except those active in the areas of agriculture, forestry, fishing and transport.

Investors (individuals and legal entities) conducting businesses with investment companies, provided it is not related to their professional activities.

What type of disputes can the Hellenic Ombudsman for Banking - Investment Services consider?

A)

Disputes arising from the provision of banking services (such as deposits, loans and cards) and of investment services (such as shares, mutual funds and bonds) by banks and investment service providers (i.e. brokerage firms, mutual fund management companies and portfolio investment companies) which are established in Greece and are participants in or associates of the H.O.B.I.S. scheme.

What type of disputes can the Hellenic Ombudsman for Banking - Investment Services consider?

B)

Cross-border disputes, in the H.O.B.I.S.' s capacity as a member of FIN-NET (the Cross-Border Out-of-Court Complaints Network for Financial Services). The H.O.B.I.S. provides consumers residing in Greece with information and assistance for the settlement of disputes arising in the context of their transactions with other EU and EEA member states' banking or investment service providers. The H.O.B.I.S. also considers and seeks to resolve complaints referred to it by consumers of other EU and EEA member states regarding problems arising from their transactions with banking and investment service providers established in Greece which participate or are associated members of the H.O.B.I.S. scheme.

The Hellenic Ombudsman for Banking- Investment Services **cannot** deal with:

- Complaints referred to the H.O.B.I.S. that have not been taken up with the service provider concerned first.
- Complaints referred to the H.O.B.I.S. where more than one month has passed since (a) the response of the service provider 's Customer Service Department or (b) the expiry of the ten (10) working days' deadline without a response.
- Complaints referred to the H.O.B.I.S. where more than three months have passed since the event the complaint relates to, unless you prove that you could not, with reasonable diligence, have become aware of it until a later time. In any case, the H.O.B.I.S. does not deal with complaints referred to it where more than a year has passed since the event occurred.
- Complaints that are or have been the subject of proceedings before a court of law.
- Complaints involving criminal offences prosecuted ex officio.
- Complaints that have been previously dealt with by the H.O.B.I.S., unless there exist new evidence.
- Complaints regarding the service provider 's business policy (e.g. invoicing, loan approvals etc.).
- Issues concerning a bank 's decisions while acting in the capacity of an executor of a will, trustee or official receiver.
- Complaints concerning disputes that have in the meantime been settled between the parties concerned.
- General information regarding banking or investment service providers and their services.

Making a complaint

3 Steps

-**The first step** is to complain to *the officer in charge* of the banking or investment service provider's service where your complaint-related transaction occurred. Normally, the officer should respond within ten (10) working days.

-**The second step**, in case you are not satisfied with the proposed solution or you do not receive a response within ten (10) working days, is to complain in writing to the service provider's (banks, brokerage firms, mutual fund management companies, portfolio investment companies) Customer Service Department. Normally, the Customer Service Department should respond in writing within ten (10) working days as of the date you filed your complaint.

Making a complaint

3 steps

-Third step: In many cases, the service provider will be able to sort out the problem. Nevertheless, if you are not satisfied with the Customer Service Department 's response or if the ten (10) working days have elapsed and you have still not received a response, you may file your complaint with the Hellenic Ombudsman for Banking-Investment Services within one (1) month at the latest as of the Customer Service Department 's response or the expiry of the ten working days deadline without a response.

Complaints should be submitted to the H.O.B.I.S. in writing.

Dealing with complaints

On receiving your Complaint Form, the H.O.B.I.S. will contact you immediately to acknowledge receipt and may ask you to provide further information.

Provided the H.O.B.I.S. is able to deal with your complaint, it will contact the service provider concerned to be informed on its position and initiate the procedure below, within reasonable time and in absolute confidence:

The H.O.B.I.S. will propose an amicable settlement of the dispute with a view to reach a settlement between the parties concerned. If the parties accept the proposal, the process is completed.

If the complaint is not resolved in this way, the H.O.B.I.S. will then issue a written recommendation to the parties, stating the grounds on which it is based, aiming to resolve the dispute.

Each party may accept or reject the recommendation by letter.

If the recommendation is not accepted by either one of the parties, you may prefer to take the complaint to court instead.

Additional remarks

-Under no circumstances does the H.O.B.I.S. complaint handling procedure interrupt or suspend any legal time limits with respect to bringing the case to court.

-The H.O.B.I.S. services are free of charge

-H.O.B.I.S. investigates investors' complaints arising from their transactions with banks and investment companies participating in the Association of Athens Stock Exchange Members, the Association of Greek Institutional Investors and the Association of Intermediary Securities Services Companies.

-The percentage of complainant's satisfaction with regard to investors' complaints is lower compared with that of individuals and professionals, mainly because a large number of complaints concerned inadequate prior information being given by the banks and investment companies to the customer, which is difficult to prove as the investor has signed the relevant agreement.

Some of the main issues that brought transacting parties into dispute were the following:

- Lack of information at the time banking and investment products were promoted. Failure to be totally transparent and sincere can lead to a climate of distrust and does not promote the efficient operation of markets.
- Setting-off of deposit account balances, which also include salary and pension deposits, with dues in arrears from loans and credit cards.
- Account debits arising from ATM cash withdrawals, for which the cardholders claim that they had not lost their card or made their PIN known to anyone else.
- Harassment of borrowers and investors as well as parties not directly linked to the transaction (e.g. relatives of the borrowers) by collection agencies.

Some of the main issues that brought transacting parties into dispute were the following

-Unilateral and detrimental towards the borrowers change in the terms of a loan agreement (e.g. interest rate level) by invoking the adverse economic climate and asking the borrowers to accept the change, offering them a grace period and extension on the duration of repayment, or even termination of the agreement.

-Charges and fees to bank customers and investors, the contractual terms of which have been deemed-though not necessarily irrevocably- abusive.

-Loss of funds through participation by investors in international investment products , as a result of the difficulties encountered by issuers of such products due to the global crisis in the markets.

Interesting cases

Case 4\2008, Insufficient information on bond transactions

The complainant had invested 311.000 Euros in 3-year Euribor-linked bonds. The transaction voucher stated a 4% yield for the first year, without any reference to the next two years. He complained because the bonds ceased to produce any yield thereafter and, furthermore, when he asked to redeem the bonds, he was informed that he would lose about 30.000 Euros of the invested capital, a condition he was not announced beforehand. As a result of a H.O.B.I.S. investigation, the bank repaid to the investor his entire funds plus interest for the period in which the bonds had a yield.

Interesting cases

Case 6/2008, claim of insufficient information

The complainant, a pensioner, was persuaded to invest his lump-sum retirement cheque of 100.000 Euros in a mutual fund recommended by a branch officer of the bank, believing that he would thereby secure a fixed-rate yield. Subsequently, another bank branch suggested replacement of this mutual fund with another, from which he eventually redeemed his units, losing however 1.958 Euros of his funds. He requested recovery of his loss, claiming that he had not been sufficiently informed of these financial products. Investigation of the matter revealed that the invested capital had been reduced by 705 Euros only, and not by 1.958 Euros as the complainant had been informed by oversight. The bank restituted such loss, satisfying the complainant's request.

Interesting cases

Case 116/2008, Insufficient information on an investment product

Although he wished to invest in a deposit account generating a fixed-rate yield, the complainant, an old and ailing man, was persuaded by an employee of the bank to invest in a mutual fund that did not provide a fixed-rate yield. As a matter of fact, the invested amount was reduced significantly, and this caused serious deterioration in the complainant's health. Following H.O.B.I.S. intermediation, the bank considered the investment as having never taken place and indemnified the funds of the complainant.

Interesting cases

Case 117/2008, Dematerialized securities redeemed without instructions.

In 2005, the complainant invested 50.000 Euros and 25.000 Euros in dematerialized securities issued by the bank and maturing in 2010 and 2015 respectively. When he found out that the bank had unilaterally redeemed the securities without his instructions and credited the proceeds in a non-interest account, he appealed to H.O.B.I.S. seeking to collect the interest he had lost. The bank satisfied his request and credited his account with the amount of 2.208 Euros.

Other findings

- Insufficient information to investors on the features of investment products, especially on their expected yield, the risks involved and the structure of the mutual fund portfolio. Consumers must read very careful the terms of their investment agreement with the bank or the investment provider.
- Although he requested to place his funds in time deposits, a customer was persuaded by a bank employee he trusted to invest in mutual funds and structured products and as a result, lost part of his funds.
- Failure to comply with an investor's instructions to transfer his portfolio to another brokerage firm.
- Insufficient information regarding right of redemption on bonds
- Disputed transactions and methods of assessing the yield of investment \deposit products.

Sources

- **FIN-NET website,**
<http://ec.europa.eu/internal_market/fin-net/index_en.htm>
- **Hellenic Ombudsman for Banking-Investment Services (H.O.B.I.S.)** <<http://www.bank-invest-omb.gr/en/mtey.html>>
- **Annual report 2008, Hellenic Ombudsman for Banking-Investment Services (H.O.B.I.S.)**