

Banking Ombudsman Scheme

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CHAPTER I

PRELIMINARY

1. SHORT TITLE, COMMENCEMENT, EXTENT AND APPLICATION

- (1) This scheme may be called the Banking Ombudsman Scheme, 1995. '
- (2) It shall come into force on such date as the Reserve Bank of India may specify.
- (3) It shall extend to the whole of India.
- (4) This scheme shall apply to the business in India of every commercial bank (other than Regional Rural Banks) and. Scheduled Primary Co-operative Bank, having a place of business in India, whether such bank is incorporated in India or outside India.

2. OBJECT OF THE SCHEME

The object of the Scheme is to enable resolution of complaints relating to provision of banking services and to facilitate the satisfaction, or settlement of such complaints.

3. SUSPENSION OF THE SCHEME

- (1) The Reserve Bank, if it is satisfied that it is expedient so to do, may by order suspend for such period as may be specified in the order, the operation of all or any of the provisions of this scheme, either generally or in relation to any specified banking company.
- (2) The Reserve Bank may, by order, extend from time to time, the period of any suspension ordered as aforesaid by such period, as it thinks fit.

CHAPTER II

ESTABLISHMENT OF BANKING OMBUDSMAN

4. APPOINTMENT

The Reserve Bank may appoint one or more persons to be known as Banking Ombudsman to carry out the functions entrusted to him by or under the scheme. The

Banking Ombudsman shall hold office during the pleasure of the Governor, Reserve Bank.

5. TERRITORIAL JURISDICTION

The Reserve Bank shall specify the territorial limits, to which the authority of each of the Banking Ombudsman appointed pursuant to Clause 4 shall extend.

6. LOCATION OF OFFICE

The office of the Banking Ombudsman will be located at such places as may be specified by the Reserve Bank.

7. FACILITY FOR HAVING TEMPORARY HEADQUARTERS

In order to expedite disposal of complaints, the Banking Ombudsman may hold sittings at other places within his area of jurisdiction.

8. QUALIFICATION

The Banking Ombudsman will be a person of high standing in the legal, banking, financial services, public administration or management sectors.

9. TENURE

The Banking Ombudsman will be appointed for a period not exceeding three years and be eligible for extension for a further period not exceeding two years subject to an overall age limit of 65 years. Consequent on appointment, the Banking Ombudsman shall devote his whole time to the affairs of his office. Provided that the Reserve Bank may, if in its opinion it is necessary so to do, permit the Banking Ombudsman to undertake such part time honorary work as is not likely to interfere with his duties as Banking Ombudsman.

10. REMUNERATION

The remuneration and other perquisites payable/extended to the Banking Ombudsman will be determined by the Reserve Bank from time to time and borne by the banks in such proportion and in such manner as may be determined by the Reserve Bank.

11. STAFFING OF THE OFFICE OF THE BANKING OMBUDSMAN

(1) The Banking Ombudsman shall be provided with a secretariat drawn from banks, Reserve Bank, etc. who will be placed on duty with the Office of the Banking Ombudsman.

- (2) The cost of the secretariat will be shared by banks in such proportion as may be determined by the Reserve Bank.

CHAPTER III

JURISDICTION POWERS AND DUTIES OF BANKING OMBUDSMAN

12. GENERAL

The Banking Ombudsman's powers and duties will be:-

- (a) to receive complaints relating to the provision of banking services.
- (b) to consider such complaints and facilitate their satisfaction, or settlement by agreement, by making a recommendation, or Award in accordance with this scheme.

13. SPECIFIC AMBIT OF AUTHORITY

As regards banking services, the Banking Ombudsman's authority will include:-

- (a) all complaints concerning deficiency in service such as:-
 - i) non-payment/inordinate delay in the payment or collection of cheques, drafts/bills etc.;
 - ii) non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof;
 - iii) non-issue of drafts to customers and others;
 - iv) non-adherence to prescribed working hours by branches;
 - v) failure to honour guarantee/letter of credit commitments by banks;
 - vi) claims in respect of unauthorised or fraudulent withdrawals from deposit accounts, etc.;
 - vii) complaints pertaining to the operations in any savings, current or any other account maintained with a bank, such as delays, non-credit of proceeds to parties' accounts, non-payment of depositor non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits.
 - viii) complaints from exporters in India such as delays in receipt of export proceeds, handling of export bills, collection of bills, etc. provided the said complaints pertain to the bank's operations in India; and
 - ix) Complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank-related matters.
- b) Complaints concerning loans and advances only insofar as they relate to:-
 - i) non-observance of Reserve Bank directives on interest rates,

- ii) delays in sanction/non-observance of prescribed time schedule for disposal of loan applications and
- i) non-observance of any other directions or instructions of the Reserve Bank, as may be specified for this purpose, from time to time.

(c) Such other matters as may be specified by the Reserve Bank from time to time in this behalf.

14. OTHER POWERS AND DUTIES

(1) General superintendence and control

The Banking Ombudsman shall exercise general superintendence and control over his office and shall be responsible for the conduct of business thereat.

(2) Power to incur expenditure

The Banking Ombudsman shall have power to incur expenditure on behalf of the office. In order to exercise the aforesaid power, the Banking Ombudsman will draw up an annual budget for his office in consultation with Reserve Bank. The Reserve Bank will indicate the shares to be borne by the concerned banks. The Banking Ombudsman shall exercise the powers of expenditure within the approved budget.

14. ANNUAL REPORT ON FUNCTIONING AND WORKING OF THE BANKING OMBUDSMAN'S OFFICE

- (1) The Banking Ombudsman shall send to the Governor, Reserve Bank, in May every year, a report containing a general review of the activities of the office of the Ombudsman during the preceding financial year, and shall furnish such other information as the Reserve Bank may direct.
- (2) The Reserve Bank may, if it considers necessary in the public interest so to do, publish in such consolidated form or otherwise as it deems fit, the report and the information received from the Banking Ombudsman.

CHAPTER IV

PROCEDURE FOR REDRESSAL OF GRIEVANCE

16. COMPLAINT

- (1) Any person who has a grievance against a bank, may himself or through an authorised representative make a complaint in writing to the Banking Ombudsman within whose jurisdiction the branch or office of the bank complained against is located.

- (2) The complaint shall be in writing duly signed by the complainant or his authorised representative and shall state clearly the name and address of the complainant, the name and address of the branch or office of the bank against-which the complaint is made, the facts giving rise to the complaint supported by documents, if any, relied on by the complainant, the nature and extent of the loss caused to the complainant and the relief sought from the Banking Ombudsman and a statement about the compliance of the conditions referred to in sub- clause (3) of this clause.
- (3) No complaint to the Banking Ombudsman shall lie unless
- (a) The complainant had before making a complaint to the Banking Ombudsman made a written representation to the bank named in the complaint and either the bank had rejected the complaint or the complainant had not received any reply within a period of two months after the bank concerned received his representation or the complainant is not satisfied with the reply given to him by the bank.
 - (b) The complaints made not later than one year after the bank had rejected the representation or sent its final reply on the representation of the complainant.
 - (c) The complaint is not in respect of the some subject matter, which was settled through the office of the Banking Ombudsman in any previous proceedings whether received from the same complainant or any one or more of the parties concerned with the subject matter.
 - (d) The complaint is not the same subject matter, for which any proceedings before any court, tribunal or arbitrator or any other forum is pending or a decree or Award or order of dismissal has already been passed by any such court, tribunal, arbitrator or forum.
 - (e) The complaint is not frivolous or vexatious in nature.

17. POWER TO CALL FOR INFORARATION

- (1) For the purpose of carrying out his duties under this scheme, a Banking Ombudsman may require the bank named in the complaint to provide any information or furnish certified copies of any document relating to the subject matter of the complaint which is or is alleged to be in its possession.

Provided that in the event of the failure of a bank to comply the requisition made under sub clause (1) the Banking Ombudsman may, if he sees fit, draw the inference that the information, if provided or copies if furnished, would be unfavourable to the bank.

- (2) The Banking Ombudsman shall maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and shall not disclose such information or document to any person except with the consent of the person furnishing such information or document. Provided that nothing in

this clause shall prevent the Banking Ombudsman from disclosing information or document furnished by a party In a complaint to the other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings.

18. SETTLEMENT OF COMPLAINT BY AGREEMENT

- (1) As soon as it may be practicable so to do the Banking Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to the branch or office of the bank named in the complaint and endeavour to promote a settlement of the complaint by agreement between the complainant and the bank named in the complaint through conciliation or mediation.
- (2) For the purpose of promoting a settlement of the complaint, the Banking Ombudsman may follow such procedure as he may consider appropriate and he shall not be bound by any legal rule of evidence.

19. RECOMMENDATION FOR SETTLEMENT

- (1) If a complaint is not settled by agreement within a period of one month from the date of receipt of the complaint or such further period as he may consider necessary, the Banking Ombudsman may make a recommendation by reference to what is, in his opinion, fair in all the circumstances. Copies of the recommendation shall be sent to the complainant and the bank concerned.
- (2) The recommendation by the Banking Ombudsman shall be open to acceptance by the complainant only if he accepts all terms of the recommendation in full and final settlement of his claim against the bank and he shall, if he accepts the recommendation, within two weeks from the date of receipt of the recommendation send his acceptance in writing stating clearly that he is prepared to accept a settlement in terms of the recommendation is full and final settlement of his complaint.
- (3) The Banking Ombudsman shall cause a copy of the letter of acceptance, received from the complainant to be forwarded to the bank. The bank shall, if the recommendation is acceptable to it, comply with the terms of the recommendation immediately on receipt of acceptance of the terms by the complainant and inform the Banking Ombudsman of the settlement in terms of his recommendation. If the recommendation is not acceptable to the bank, it shall inform the Banking Ombudsman within a period of two weeks.

20. AWARD BY THE BANKING OMBUDSMAN

- (1) Where the complaint is not settled by agreement or recommendation as provided in clause 18 or 19 as the case may be, within a period of two months from the date of receipt of the complaint or such extended date as may be considered necessary by

him, the Banking Ombudsman shall inform the parties of his intention to pass an Award.

- (2) It shall be open to the parties to submit any further representations or evidence in support of their case within a period of 15 days from the date of notice referred to in sub- clause (1).
- (3) The Banking Ombudsman shall pass an Award after affording the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the principles of banking law and practice, directions, instructions and guidelines issued by the Reserve Bank from time to time and such other factors which in his opinion are necessary in the interest of justice.
- (4) An Award shall be in writing and shall state the direction/s, if any, to the bank for specific performance of its obligations and the amount awarded to the complainant by way of compensation for the loss suffered by him Belong with a summary of the reasons for making the award,

Provided that the Banking Ombudsman shall not award any compensation in excess of that which is necessary to cover the loss suffered by the complainant as a direct consequence of the commission or omission of the bank, or for an amount exceeding rupees ten lakhs, whichever is lower.

- (5) A copy of the award shall be sent to the complainant and the bank named in the complaint.
- (6) An Award shall not be binding on a bank against which it is passed unless the complainant furnishes to it, within a period of one month from the date of the Award, a letter of acceptance of the award in full and final settlement of his claim in the matter. Within fifteen days from the date of receipt by it, of the acceptance in writing of the Award by the complainant the bank shall comply with the Award and intimate the compliance to the Banking Ombudsman.
- (7) The Banking Ombudsman shall report to the Reserve Bank the non-compliance by any bank of an Award which became binding on it pursuant to sub-clause (6).

21. REJECTION OF THE COMPLAINT

The Banking Ombudsman may reject the complaint at any stage if it appears to him that the complaint is made without any sufficient cause or that it is not pursued by the complainant with reasonable diligence or that prima facie, there is no loss or damage or inconvenience suffered by the complainant.

CHAPTER V

MISCELLANEOUS

22. REMOVAL OF DIFFICULTIES

If any difficulty arises in giving effect to the provisions of this scheme, the Reserve Bank may make such provision not inconsistent with the Banking Regulation Act 1949 or the scheme, as appears to it to be necessary or expedient for removing the difficulty.