

## **Subject- consumer Affairs**

### **Topics for Today's Class (14/04/2020)**

- THE BANKING OMBUDSMAN SCHEME
- GROUNDS OF COMPLAINT
- PROCEDURE FOR FILING COMPLAINT
- WHEN ONE CAN FILE A COMPLAINT?
- WHO CAN FILE A COMPLAINT?
- THE ESSENTIALS OF A COMPLAINT:-
- CAN A COMPLAINT BE REJECTED BY THE BANKING OMBUDSMAN

### **THE BANKING OMBUDSMAN SCHEME,**

The Scheme is introduced with the object of enabling resolution of complaints relating to certain services rendered by banks and to facilitate the satisfaction or settlement of such complaints.

The Reserve Bank of India has widened the scope of its Banking Ombudsman Scheme 2006, to include, inter alia, deficiencies arising out of sale of insurance/ mutual fund/ other third party investment products by banks. Under the amended Scheme, a customer would also be able to lodge a complaint against the bank for its non-adherence to RBI instructions with regard to Mobile Banking/ Electronic Banking services in India.

The pecuniary jurisdiction of the Banking Ombudsman to pass an Award has been increased from existing rupees one million to rupees two million. Compensation not exceeding rupees hundred thousand can also be awarded by the Banking Ombudsman to the complainant for loss of time, expenses incurred as also, harassment and mental anguish suffered by the complainant.

The procedure for complaints settled by agreement under the Scheme has also been revised. Appeal has now been allowed for the complaints closed under Clause 13 (c) of the existing Scheme relating to rejection which was not available earlier.

The Reserve Bank has released a Notification dated June 16, 2017 amending the Banking Ombudsman Scheme 2006. The amended Scheme shall come into force from July 1, 2017.

## **GROUNDS OF COMPLAINT**

1) Any person may file a complaint with the Banking Ombudsman having jurisdiction on any one of the following grounds alleging deficiency in banking including internet banking or other services.

(a). non-payment or inordinate delay in the payment or collection of cheques, drafts, bills etc.;

(b). non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof;

(c). non-acceptance, without sufficient cause, of coins tendered and for charging of commission in respect thereof;

(d). non-payment or delay in payment of inward remittances;

(e). failure to issue or delay in issue of drafts, pay orders or bankers' cheques

(f). non-adherence to prescribed working hours;

(g). failure to provide or delay in providing a banking facility (other than loans and advances) promised in writing by a bank or its direct selling agents;

(h). delays, non-credit of proceeds to parties' accounts, non-payment of deposit or non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits in any savings, current or other account maintained with a bank;

(i). complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank- related matters;

(j). refusal to open deposit accounts without any valid reason for refusal;

(k). levying of charges without adequate prior notice to the customer;

(l) non-adherence to the instructions of Reserve Bank on ATM /Debit Card and Prepaid Card operations in India by the bank or its subsidiaries on any of the following:

i. Account debited but cash not dispensed by ATMs

- ii. Account debited more than once for one withdrawal in ATMs or for POS transaction
- iii. Less/Excess amount of cash dispensed by ATMs
- iv. Debit in account without use of the card or details of the card
- v. Use of stolen/cloned cards
- vi. Others

(m). non-adherence by the bank or its subsidiaries to the instructions of Reserve Bank on credit card operations on any of the following:

- i. Unsolicited calls for Add-on Cards, insurance for cards etc.
- ii. Charging of Annual Fees on Cards issued free for life
- iii. Wrong Billing/Wrong Debits
- iv. Threatening calls/ inappropriate approach of recovery by recovery agents including non-observance of Reserve Bank guidelines on engagement of recovery agents
- v. Wrong reporting of credit information to Credit Information Bureau
- vi. Delay or failure to review and correct the credit status on account of wrongly reported credit information to Credit Information Bureau.
- vii. Others

(n). non-adherence to the instructions of Reserve Bank with regard to Mobile Banking / Electronic Banking service in India by the bank on any of the following:

- i. delay or failure to effect online payment / Fund Transfer,
- ii. unauthorized electronic payment / Fund Transfer,

(o). non-disbursement or delay in disbursement of pension (to the extent the grievance can be attributed to the action on the part of the bank concerned, but not with regard to its employees);

(p). refusal to accept or delay in accepting payment towards taxes, as required by Reserve Bank/Government;

(q). refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Government securities;

(r). forced closure of deposit accounts without due notice or without sufficient reason;

(s). refusal to close or delay in closing the accounts;

(t). non-adherence to the fair practices code as adopted by the bank;

(u). non-adherence to the provisions of the Code of Bank's Commitments to Customers issued by Banking Codes and Standards Board of India and as adopted by the bank ;

(v). non-observance of Reserve Bank guidelines on engagement of recovery agents by banks;

(w). non-adherence to Reserve Bank guidelines on para-banking activities like sale of insurance /mutual fund /other third party investment products by banks with regard to following:

i. improper, unsuitable sale of third party financial products

ii. non-transparency /lack of adequate transparency in sale

iii. non-disclosure of grievance redressal mechanism available

iv. delay or refusal to facilitate after sales service by banks

(x). any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.

(2)A complaint on any one of the following grounds alleging deficiency in banking service in respect of loans and advances may be filed with the Banking Ombudsman having jurisdiction:

(a) non-observance of Reserve Bank Directives on interest rates;

(b) delays in sanction, disbursement or non-observance of prescribed time schedule for disposal of loan applications;

(c) non-acceptance of application for loans without furnishing valid reasons to the applicant; and

(d) non-adherence to the provisions of the fair practices code for lenders as adopted by the bank or Code of Bank's Commitment to Customers, as the case may be;

(e) non-observance of Reserve Bank guidelines on engagement of recovery agents by banks; and

(f) non-observance of any other direction or instruction of the Reserve Bank as may be specified by the Reserve Bank for this purpose from time to time.

(3) The Banking Ombudsman may also deal with such other matter as may be specified by the Reserve Bank from time to time in this behalf.

### **PROCEDURE FOR FILING COMPLAINT**

1. Any person who has a grievance against a bank on any one or more of the grounds mentioned in Clause 8 of the Scheme may, himself or through his authorised representative (other than an advocate), make a complaint to the Banking Ombudsman within whose jurisdiction the branch or office of the bank complained against is located.

Provided that a complaint arising out of the operations of credit cards and other types of services with centralized operations, shall be filed before the Banking Ombudsman within whose territorial jurisdiction the billing address of the customer is located.

2. (a) The complaint in writing shall be duly signed by the complainant or his authorized representative and shall be, as far as possible, in the form specified in Annexure 'A' or as near as thereto as circumstances admit, stating clearly:
  - i. the name and the address of the complainant,
  - ii. the name and address of the branch or office of the bank against which the complaint is made,
  - iii. the facts giving rise to the complaint,
  - iv. the nature and extent of the loss caused to the complainant, and
  - v. the relief sought for.

(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 and the bank had rejected the complaint or the complainant had not received any reply within a period of one month after the bank received his representation or the complainant is not satisfied with the reply given to him by the bank;

(b) the complaint is made not later than one year after the complainant has received the reply of the bank to his representation or, where no reply is received, not later than one year and one month after the date of the representation to the bank;

(c) the complaint is not in respect of the same cause of action which was settled or dealt with on merits by the Banking Ombudsman in any previous proceedings whether or not received from the same complainant or along with one or more complainants or one or more of the parties concerned with the cause of action ;

(d) the complaint does not pertain to the same cause of action, for which any proceedings before any court, tribunal or arbitrator or any other forum is pending or a decree or Award or order has been passed by any such court, tribunal, arbitrator or forum;

(e) the complaint is not frivolous or vexatious in nature; and 10

(f) the complaint is made before the expiry of the period of limitation prescribed under the Indian Limitation Act, 1963 for such claims.

### **When One can file a Complaint?**

One can file a complaint before making a complaint to the Banking Ombudsman, made a written representation to the bank and the bank had rejected the complaint or the complainant had not received any reply within a period of one month after the bank received his representation or the complainant is not satisfied with the reply given to him by the bank.

### **Who can file a Complaint?**

- 1. Consumer himself**
- 2. A representative of the complaint (other than an advocate)**

### **The Essentials of a complaint:-**

- i. the name and the address of the complainant,
- ii. the name and address of the branch or office of the bank against which the complaint is made,
- iii. the facts giving rise to the complaint,
- iv. the nature and extent of the loss caused to the complainant, and
- v. the relief sought for.

### **POWER TO CALL FOR INFORMATION**

(1) For the purpose of carrying out his duties under this Scheme, a Banking Ombudsman may require the bank against whom the complaint is made or any other bank concerned with the complaint to provide any information or furnish certified copies of any document relating to 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 with the requisition without sufficient cause, the Banking Ombudsman may, if he deems fit, draw the inference that the information if provided or copies if furnished would be unfavorable to the bank.

(2) The Banking Ombudsman shall maintain confidentiality of any information or document that may come 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 any legal requirement or the principles of natural justice and fair play in the proceedings.

### **CAN A COMPLAINT BE REJECTED BY THE BANKING OMBUDSMAN ?**

The Banking Ombudsman may reject a complaint at any stage if it appears to him that the complaint made is;

- 1.) The BO is opinion that complaint is without any sufficient cause

- 2.) The BO is in the opinion of that there is no loss or damage or inconvenience caused to the complainant.
- 3.) The compensation sought from BO is beyond 20 lakh.
- 4.) The requiring consideration of elaborate documentary and oral evidence and the proceedings before the Banking Ombudsman are not appropriate for adjudication of such complaint;