



BANCA D'ITALIA  
EUROSISTEMA

# The Banking and Financial Ombudsman Annual Report



Abridged Version



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Abridged Version

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## FOREWORD

This Report gives an account for 2016 of the activity of the Banking and Financial Ombudsman (Arbitro Bancario Finanziario, ABF), an out-of-court settlement scheme for disputes between customers and banks and other financial intermediaries, established by Article 128-bis of Legislative Decree 385/1993 (the Consolidated Law on Banking).

In 2016, the ABF's structure changed: at the end of last year, the Bank of Italy established four new panels in Bari, Bologna, Palermo and Turin, in addition to those already operating in Milan, Naples and Rome, in order to improve its ability to respond in a timely manner to customers and to strengthen their protection.

In 2016 the ABF received 21,652 complaints, with a 59 per cent increase on the previous year. On average, more than 1,800 customers per month filed complaints with the panels against a bank or financial intermediary for improper conduct or disputes over the parties' rights, obligations and powers (in 2015 the average number of complaints was over 1,100 per month).

The most common type of complaint still concerns loans secured by a pledge of one-fifth of salary or pension, with specific reference to the demand for repayment of part of the costs incurred by the complainant in the event of early termination of the contract.

The panels managed very heavy workloads: in 2016, the ABF issued 13,770 decisions. In 75 per cent of the cases the outcome was substantially favourable to the complainant: 50 per cent of complaints resulted in total or partial acceptance of the complainant's request and in 25 per cent of complaints the dispute was settled by the parties prior to the ABF's decision. Awards to customers totalled more than €13 million.

The activity of the Banking and Financial Ombudsman continued to increase steadily in the first months of 2017 as well: as of last April more than 10,000 complaints had been submitted.

Without prejudice to the full decision-making autonomy of the panels, the Bank of Italy gives its full support to the ABF's activities, thanks above all to the technical secretariats established at the Bank of Italy's branches in the cities where the panels operate.

In order to provide more information about the Ombudsman and to make browsing easier, the ABF's website has been completely renewed in terms of design and content organization.

\* \* \*

The Report is divided into eight sections.

Section 1 provides a summary of the ABF's main characteristics and describes the current structure of its system.

Section 2 contains an international comparison and offers an overview of the European alternative dispute resolution systems (ADR) and on the American experience in this field.

Section 3 provides statistical data on the complaints received by the ABF, the decisions it issued and the activity of the panels in 2016 and the first few months of 2017.

Sections 4 and 5 outline the main issues that were brought to the ABF's attention in 2016 and issues concerning the limits to the ABF's jurisdiction.

Section 6 provides a summary of the decisions issued by the Coordinating Panel, which acts to ensure consistency among the territorial panels and solve any interpretation issues.

Section 7 provides preliminary information on decisions published in 2017.

Section 8 focuses on civil court decisions, concerning subjects within the scope of the Banking and Financial Ombudsman, and both consistent with and contrary to the panels' decisions.

The Report has an Appendix containing data on the complaints submitted to the ABF during 2016 and charts that outline the composition of the territorial panels and the Coordinating Panel.

The Report is available online, both on the [Bank of Italy's](#) website and on the [ABF's](#) website. The online version has hyperlinks. A hard copy may be obtained on request from the Paolo Baffi Library ([richieste.pubblicazioni@bancaditalia.it](mailto:richieste.pubblicazioni@bancaditalia.it)).

With this Report, the Bank of Italy fulfils its obligations under [Credit Committee Resolution 275/2008](#) and the provisions on alternative dispute resolution relating to banking and financial transactions and services pursuant to the Bank of Italy's provision dated 18 June 2009 as amended (hereinafter the '[ABF Provisions](#)').

In addition, the publication of this Report fulfils the obligation under Legislative Decree 130/2015 to make the annual reports on the activity of ADR entities publicly available.

This abridged version contains the first three sections.



# 2016 Data

**21.652**

(+59%)



**Complaints received**

of which:

**15.297** (+106%)

regarding loans secured by pledge of 1/5 of salary

**220**

panel meetings

**Complaints by panel**

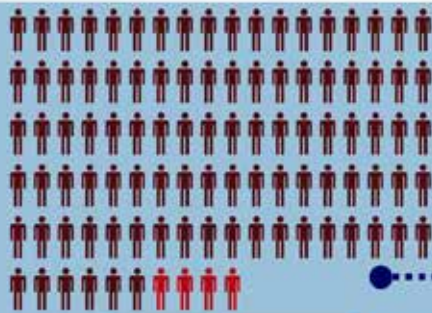
**Naples panel (41%)**

**Milan panel (33%)**

**Rome panel (26%)**



**Complaints by type of complainant**



**Resolved complaints**

**dismissed (25%)**

**settled by the parties (25%)**

**upheld (50%)**

**€13 million**



**awarded to customers**





## 1. THE BANKING AND FINANCIAL OMBUDSMAN: MAIN CHARACTERISTICS

This section describes the main characteristics of Italy's Banking and Financial Ombudsman (ABF)<sup>1</sup> and mentions the Bank of Italy's role as national competent authority, as provided for by [Legislative Decree 130/2015](#) which implemented [Directive 2013/11/EU](#) on alternative dispute resolution for consumer disputes into Italian law.

### *The Banking and Financial Ombudsman (ABF): what it is*

In 2009 the Bank of Italy instituted the Banking and Financial Ombudsman, implementing Article 128-*bis* of the Consolidated Law on Banking which stipulates that the banking and financial sectors must have systems in place for the out-of-court settlement of disputes.

The ABF is a decision-making alternative dispute resolution scheme: it issues a decision upholding or rejecting the complaint, unlike other schemes designed to facilitate a private settlement between the parties.<sup>2</sup>

The Ombudsman's decisions are not legal judgments, they are not enforceable, they are not legally binding on the customer or the financial intermediary and they do not rule out the possibility of submitting the dispute to the civil courts.

However, recourse to the ABF satisfies the prerequisite for filing a judicial proceeding: no complaint can be filed before a court without first going through the mediation process pursuant to Legislative Decree 28/2010 (as amended) or without recourse to the ABF.

Pursuant to Legislative Decree 28/2010,<sup>3</sup> recourse to the ABF satisfies the pre-condition for the commencement of judicial proceedings regarding banking and financial contracts: those who want to commence a civil proceeding may complain to the ABF as an alternative to mediation.

Any decision regarding disputes between customers and financial intermediaries, entrusted to a decision-making body currently divided into seven panels, is made

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<sup>1</sup> Additional information on the functioning of the ABF is available on the ABF's website, [www.arbitrobancariofinanziario.it](http://www.arbitrobancariofinanziario.it).

<sup>2</sup> A comparison with other alternative dispute resolution systems is available in the [Banking and Financial Ombudsman Annual Report](#) for 2015.

<sup>3</sup> After the Constitutional Court's decision No. 272/2012, mandatory mediation was reintroduced by Decree Law 69/2013 with regard to the four years following its entry into force (until 21 September 2017). The Commission set up at the Ministry of Justice in order to reform the alternative dispute resolution system (Commission chaired by Prof. Guido Alpa), has proposed extending the mandatory nature of the mediation until 21 September 2023.



according to the law on the basis of the complaint brought by the customer and in light of the documents presented by the parties. The panels apply the laws and regulations that govern the matter in dispute and, when applicable, any relevant provisions of codes of conduct to which the bank subscribes. Technical consultancy and hearings of the parties are not allowed.

The decisions of the Ombudsman may not be appealed. The parties cannot request a re-examination of the merits of the dispute: they may only request that a decision be corrected where there was a material error or omission or where the calculation was incorrect. If an intermediary refuses to comply with a decision, notice of its non-compliance is published on the ABF's website.

### *Who must adhere to the system*

All intermediaries entered in the registers and lists kept by the Bank of Italy must participate in the system: banks, financial intermediaries, payment institutions, electronic money institutions, loan guarantee consortia and the Post Office as regards its BancoPosta activity.<sup>4</sup> Adherence is a requirement for the provision of banking and financial services.

If the intermediary does not fall into the above mentioned categories, the ABF cannot examine the complaint. Before submitting a dispute to the Ombudsman, it is therefore convenient to verify that the intermediary is entered in the [registers and lists](#) kept by the Bank of Italy on its website.

The ABF maintains its jurisdiction also if the intermediary is removed from the registers and lists after filing the complaint.

### *The scope of the ABF*

The ABF's authority extends to disputes concerning banking and financial transactions and services as well as payment services,<sup>5</sup> except for those relating to transactions or conduct prior to 1<sup>st</sup> January 2009.

The ABF may not decide disputes relating to investment products, services or activities; since January 2017 it has been possible to submit such disputes to the [Financial Disputes Arbitrator](#) (FDA), the new out-of-court dispute resolution system established by the Companies and Stock Exchange Commission (Commissione Nazionale per le Società e la Borsa - Consob).

The ABF's authority does not extend, for example, to disputes concerning trading or placement of securities, investment advice, asset management, and

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<sup>4</sup> Further information on adherence to the system is found in the [ABF Provisions](#), Section II.

<sup>5</sup> For instance, the ABF's jurisdiction covers disputes concerning current accounts, mortgages, personal loans, loans for the purchase of goods, credit reporting agencies, and credit and debit cards.

ordinary and subordinated bonds issued or placed by banks: such disputes fall within the jurisdiction of the FDA.

A complaint cannot be heard if the dispute has already been submitted to a judicial authority or an arbitrator or if a conciliation proceeding or mediation is pending (recourse to the ABF is, however, possible if the conciliation proceeding fails).

The Ombudsman can decide disputes relating to the ascertainment of rights, obligations and prerogatives, irrespective of the amount involved. If the customer requests the payment of a sum of money for any reason, the ABF may decide the dispute, provided that the amount requested does not exceed €100,000.

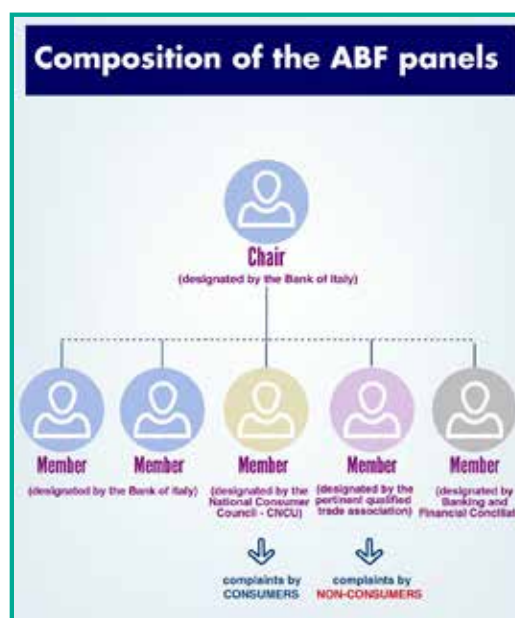
### *Who decides the dispute*

The disputes received by the Ombudsman are submitted to a decision-making body currently divided into seven territorial panels. Jurisdiction is according to the complainant's domicile.

Since 2012 the territorial panels have been flanked by a Coordinating Panel, whose purpose is to ensure greater consistency among the single panels' pronouncements. In cases where a territorial panel deems the issue at point to be of particular significance or finds that the dispute under its scrutiny has given or could give rise to inconsistent pronouncements, it refers the decision to the Coordinating Panel.

A complaint cannot be directly presented to the Coordinating Panel, nor can the Coordinating Panel be asked to re-examine a decision.

Each territorial panel is composed of five members appointed by the Bank of Italy, of whom three (including the chair) are selected by the Bank and one each by associations representing financial intermediaries and customers (consumers and non-consumers);<sup>6</sup> appointees must satisfy specific requirements of expertise, professionalism, impartiality and independence.



<sup>6</sup> For consumers, the members are designated by the National Consumer Council; for professionals/business owners, they are designated by Confindustria acting in agreement with Confcommercio, Confartigianato and Confagricoltura; for financial intermediaries, they are designated by the Banking and Financial Conciliator.

Alternate members are selected and appointed in the same manner, and are called upon to stand in for members not only in the event of absence, impediment or abstention, but also in order to respond to the functional needs of the panels in relation to the flow of complaints and workload.

All panel members must abide by the code of conduct in order to ensure the proper, independent and impartial exercise of their functions.

#### THE INCREASE IN THE NUMBER OF PANELS AND THE AMENDMENTS TO THE REGULATORY FRAMEWORK

In December 2016 four new panels were established in Turin, Bologna, Bari and Palermo, flanking those already existing in Milan, Rome and Naples.

The increase in the number of panels was preceded by amendments to the [ABF Provisions](#).

In particular, changes have been made with reference to: (a) the establishment of the four new panels and their technical secretariats, redefining the territorial jurisdiction of the pre-existing panels; (b) the composition of the Coordinating Panel; (c) the rules concerning the renewal of the term for chairs and members of the panels.

The areas of territorial jurisdiction of each panel – determined on the basis of the complainant's domicile – are detailed below:

- Milan panel: Lombardy, Veneto, Friuli Venezia Giulia and Trentino-Alto Adige;
- Turin panel: Piedmont, Liguria and Valle d'Aosta;
- Bologna panel: Emilia-Romagna and Tuscany;
- Rome panel: Lazio, Umbria, Marche and Abruzzo; its authority also extends to complaints filed by clients domiciled abroad;
- Naples panel: Campania and Molise;
- Bari panel: Puglia, Basilicata and Calabria;
- Palermo panel: Sicily and Sardinia.

If the creation of new panels becomes necessary because of further increases in the volume of the ABF's activity, the Bank of Italy may set up additional panels, up to a maximum of ten (including those already existing).

Pursuant to the ABF Provisions, the Coordinating Panel was previously composed of the three chairs of the existing territorial panels plus two further members, one designated by the associations of financial intermediaries and the

other by the associations of customers. The Bank of Italy used to select these two members annually by lot from among the members of the panels, together with two alternate ones.



Following the establishment of the new panels, the three members designated by the Bank of Italy are also now selected annually by lot from among the chairs of the seven panels, in order to ensure a balanced composition of the decision-making body.

Furthermore, the members' term of office has changed: previously the chair's term (lasting five years) and that of members (three years) could only be renewed once. Following the amendments, the term may be renewed

only once with regard to the same role; therefore, someone who has already served two terms as a panel member may also be appointed chair (limited to just one five-year term of office). This provision is to ensure, at a time of considerable change, the continuity of the experience already gained by some members, who can offer their professionalism in their role of chair.

The increase in the number of panels was accompanied by changes to the [Regulation on the functioning of the ABF's decision-making body](#). The Panel Conference has been introduced as a further opportunity for discussion involving two members for each panel (the chair, or substitute, and a member designated by the chair). This Conference, which takes place at least every six months, discusses substantive and procedural issues, which are particularly important for the panels or interesting for the overall system; the chairs share the contents of the meeting with the members of the respective panels.

The role of the chair has been further strengthened: he or she coordinates, regulates and directs the activity of the panel in order to ensure the efficiency, quality and timeliness of the decisions and to promote uniform legal interpretations. The chair regularly checks the amounts of complaints and average times for reaching decisions, and reports any circumstances that could compromise the functionality of the panel's activities to the Bank of Italy.

With the opening of the new panels, in December 2016 the Bank of Italy designated the members (48 professionals: 10 of them designated by the National Consumer Council and 16 by the Banking and Financial Conciliator) and 4 chairs for the new panels. These designations followed the collection of expressions of interest launched in July 2016 through a communication published on the Bank of Italy's [website](#).

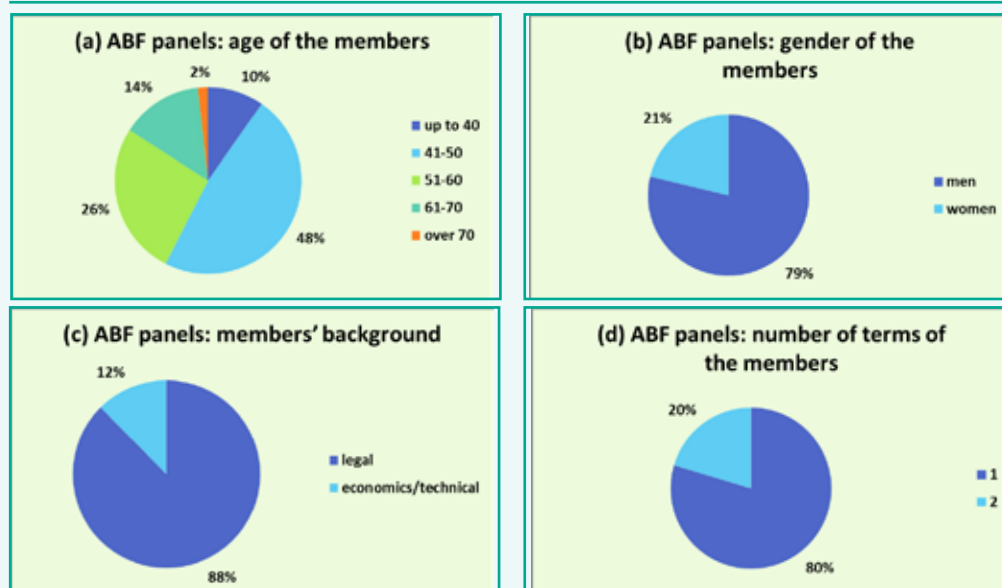
#### THE CURRENT STRUCTURE OF THE PANELS

At present the panels consist of 113 members (7 chairs, 28 regular members and 78 alternates). Of these, 55 were designated by the Bank of Italy, 34 by the Banking and Financial Conciliator, 19 by the National Consumer Council and 5 by Confindustria.

The average age of the members is 51 (the Bologna panel has the lowest average age). Over 20 per cent of the members are women; nearly 90 per cent are experts in legal matters, while the others are experts in economic or technical subjects. 80 per cent of the members are in their first term of office.

In 2017, following the selection by lot, the members of the Coordinating Panel are the chair of the Milan (chairing the group), Turin and Bari panels.

Figure A



### *How to file a complaint with the ABF*

Filing a complaint with the ABF is easy and does not require legal or any other professional assistance.

Before submitting a dispute to the Ombudsman, the customer must lodge a dispute with the financial intermediary, which must respond within 30 days. If the financial intermediary fails to do so, or if its response is unsatisfactory, the customer may then submit the complaint to the Ombudsman within twelve months from the day it was lodged with the financial intermediary.

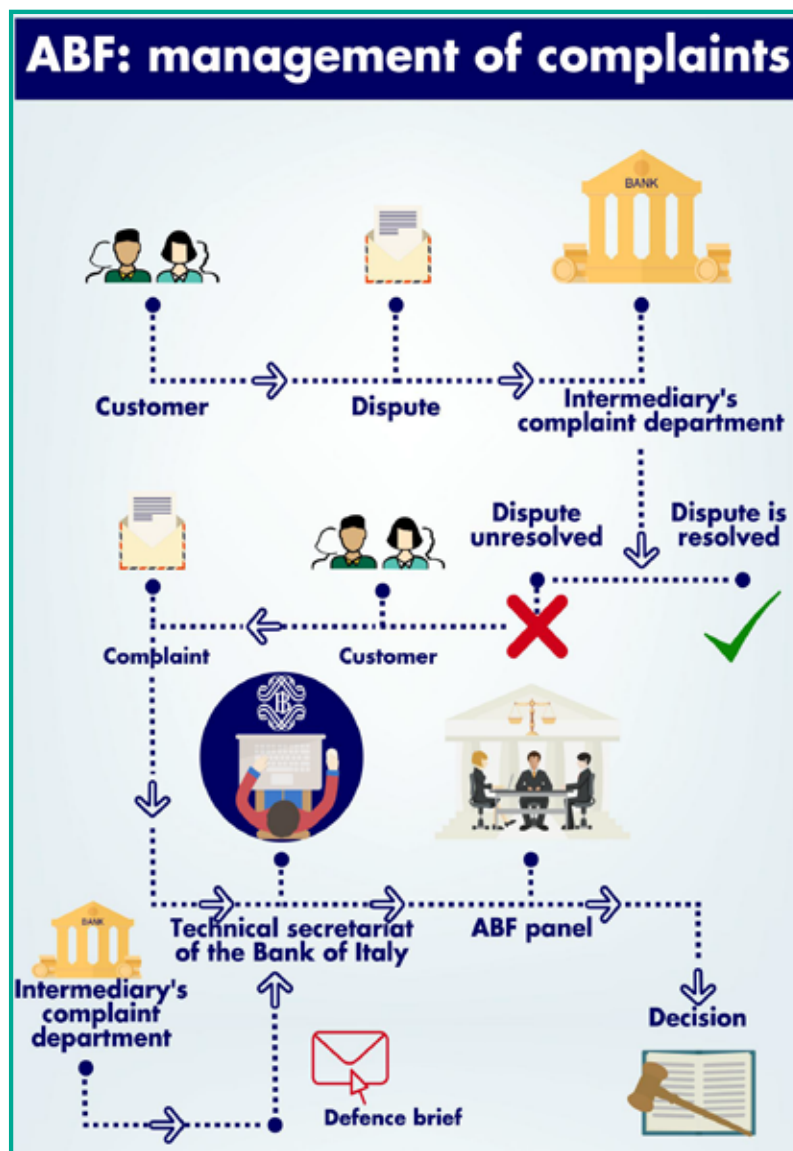
Furthermore, the customer is charged €20 to lodge a complaint with the ABF to cover the costs of the procedure. The sum is reimbursed by the financial intermediary if the ABF upholds (wholly or partly) the complaint.

The procedure begins with the filing of the complaint: the customer fills in a form (a fill-in version is available on the ABF website) with details of the case and the request. Any relevant document may be attached.

Details of how to file a complaint and of the resolution procedure can be found in the [Practical Guide](#).







The Ombudsman cannot examine a case if the complaint is incomplete, irregular or if it was submitted more than twelve months after the initial complaint was made to the financial intermediary. A [checklist](#) is available on the ABF website to determine whether a dispute can be submitted to the Banking and Financial Ombudsman. Such preliminary checks may be very useful since, if the complaint is declared inadmissible (irrespective of the grounds for such a decision), the customer shall not be entitled to repayment of the €20 paid.

The complaint and the relevant documentation may be sent directly to the competent technical secretariat by email, fax, or certified email or they may be presented in person at one of the branches of the Bank of Italy, which then forwards the documents to the competent technical secretariat. In addition, as required by the ADR Directive, the creation of a web portal allowing customers online access is underway.

Taking into account the relevant Ombudsman's case law, after the complaint has been filed the intermediary may accept the complainant's requests even only in part instead of refusing them, and propose a settlement to the customer.

If the ABF decides wholly or partly in the complainant's favour, the financial intermediary shall pay a charge of €200 to the ABF.

### *The proceedings and the response times*

After its submission, a complaint is entrusted to the technical secretariat operating in the branch of the Bank of Italy identified on the basis of the territorial jurisdiction of the panel. Without prejudice to the clear distinction of roles and responsibilities, the technical secretariats carry out fundamental tasks to assist the panels' decision-making activity: they receive the complaints and documentation submitted by the complainant and the intermediary; handle communications with the parties; prepare a technical report for the members of the panel.

Following the increase in the number of the ABF's panels, the technical secretariat's workforce grew to 121 staff members: the new secretariats were supplied with 29 employees already working at the Bank of Italy and 13 employees recruited through a selective competitive exam. Other branches of the Bank of Italy cooperate closely with some technical secretariats (in the form of on- or off-site cooperation, and on a continuous or occasional basis).

The technical secretariat's auxiliary functions and the panel's decision-making functions are entirely supported by computerized procedures implemented in 2016 in order to allow the number of the ABF's panels to be increased.

In the past year, 96 recent law graduates completed six-month internships at the technical secretariats in Milan, Rome and Naples and the central coordinating unit to add work experience within the ABF system to their skills. In the second half of 2017, internships will be started at the new technical secretariats of Turin, Bologna, Bari and Palermo.

Because of the significant increase in complaints, the time required for deciding a complaint remains over the time allotted by the regulatory framework,<sup>7</sup> though it takes less time than ordinary court proceedings.

In 2016, the average term for the conclusion of a proceeding (calculated from the date of filing the complaint to the notification of the decision) was 314 days (excluding complaints that were settled by the parties or withdrawn by the complainant).

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<sup>7</sup> The maximum term for deciding a case is 105 days: 45 days are granted to the financial intermediary to submit a defence brief and 60 days are allowed for deliberations, net of any periods of suspension. An additional 30 days are allotted to notify the parties of the decision and the grounds for it.



## *The Bank of Italy and the role of National Competent Authority*

The Bank of Italy, in its capacity as national competent authority on the ABF pursuant to Legislative Decree 130/2015, which incorporates Directive 2013/11/EU into Italian law,<sup>8</sup> has verified that in 2016 the ABF met the requirements of stability, efficiency and impartiality as well as the obligation to ensure low-cost access for consumers.

### WHERE TO FIND INFORMATION ON THE ABF

The Bank of Italy offers several instruments to support the functioning of the ABF system; in 2016 more information tools became publicly available.

**Practical Guide.** – The [Practical Guide](#) is the main information tool; the intermediaries are required to make it available to their customers.

**ABF website.** – The ABF has its own [website](#): in 2016 the number of visits to the ABF website increased markedly (45 per cent more than in 2015), confirming its role as an important source of information for consumers on the functions and activities of the ABF. The average daily visits also increased (10 per cent more than in 2015). As in previous years, the website's most frequently visited page was the archive of the Panel's decisions.

Last March the website's graphic design, structure and content were updated. In particular, the decisions (reclassified in an updated and improved way) are quickly available through the new search engine.

The file of the decisions issued by the territorial panels and by the Coordinating Panel is updated almost every week (30,000 decisions were available as of 31 May 2017).

**The Annual Report.** – The [Banking and Financial Ombudsman Annual Report](#) is an additional information tool and is available on both the ABF and the Bank of Italy websites. The 2015 Banking and Financial Ombudsman Annual Report, published in June 2016, was accessed almost 150,000 times between June and December 2016 (twice the accesses to the 2014 Report recorded in the same period).

**The toll-free number.** – The Bank of Italy has a toll-free number (800 196969) where customers may obtain general information about the activities and functions of the ABF. Users can find out how the Ombudsman works and how to file complaints; they may also leave a voice message with any queries and a Bank of Italy employee will contact them with specific information.

In 2016 there was a 20 per cent decrease in phone calls requesting information about the ABF, which accounted for approximately one fifth of the calls received. Most of the queries related to the procedure for presenting

<sup>8</sup> Further information on Legislative Decree 130/2015 is available in [The Banking and Financial Ombudsman Annual Report](#) for 2015.

complaints (52 per cent) or the scope of the Ombudsman's jurisdiction (32 per cent).

**Conferences.** – The presentation of the Annual Report for 2015 was an opportunity to organize discussions on the ABF's activities with judges, bank and financial market operators, universities, consumer associations, lawyers, chartered accountants and academics. The conferences were held in Rome and also in the cities where the new panels have been established (Turin, Bologna, Palermo and Bari) and were organized by the respective branches of the Bank of Italy. Further events were held over the year in collaboration with several universities.

**YouTube.** – Two information videos concerning the [Ombudsman's activity](#) and the various forms of [protection offered to customers](#) are available on the Bank of Italy's official YouTube channel .

**Storify.** – A non-specialist audience is provided with information on the ABF via [multimedia content](#) available on the Bank's website.

### *The ABF and the goals of the Supervisory Authority*

The outcomes of the Ombudsman's proceedings make a significant contribution to the supervision of the banking and financial system. In accordance with the [ABF's provisions](#), the Ombudsman's decisions 'become part of the broader pool of information at the Bank's disposal for its regulatory and control function'.<sup>9</sup>

Financial intermediaries are under no obligation, in their customer relations, to abide by every statement or interpretation made or endorsed by the Ombudsman in its decisions. Nevertheless, the ABF Provisions require the complaints department or the person responsible for handling complaints to keep up to date with the panels' case law and assess customer complaints accordingly, and to determine whether the point raised by the customer already has a precedent in earlier cases.

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<sup>9</sup> ABF Provisions, Section I, sub-section 1.



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## 2. THE INTERNATIONAL LANDSCAPE

In order to compare the Banking and Financial Ombudsman with other foreign alternative dispute resolution systems (ADRs), this chapter outlines the results of a survey on the main characteristics of the members of Fin-Net (a network established at European level in order to encourage cooperation between ADRs). This chapter also illustrates some features of the US Consumer Financial Protection Bureau Ombudsman's Office.

### *Alternative dispute resolution of cross-border cases in Europe: Fin-Net*

Starting from 2001 the European Commission has promoted the creation of **Fin-Net**, a network of ADR bodies active in the banking, financial and insurance sectors of member states, in order to boost the development of ADR schemes in Europe and encourage cooperation between them.

Fin-Net currently has 60 **members** from 27 EEA countries plus 2 affiliates from Switzerland and 1 from the Channel Islands. Italy's Banking and Financial Ombudsman has been a member since 2011.

The network fosters cooperation between the ADR schemes and enables consumers who intend to complain about an intermediary from another member state to do so through the ADR system operating in their home country which, through Fin-Net, will connect them to its equivalent in the country where the intermediary is based.

Thanks to the European Commission's support, the network periodically holds meetings where the ADRs discuss issues of common interest, also in order to share their best practices.

Last year's meetings were held in Brussels and Berlin, in April and September. The discussion centred on (a) the state of play regarding the implementation of the ADR Directive in the member states and the operation of the online dispute resolution (ODR) platform managed by the European Commission; (b) the revision of the Memorandum of Understanding between ADR bodies, which is necessary to ensure full alignment with the recent changes in legislation; (c) the launch of an information campaign in order to increase awareness of Fin-Net and its purposes; and (d) the progress of the Green Paper on retail financial services promoted by the European Commission.<sup>1</sup>

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<sup>1</sup> European Commission, Green Paper on retail financial services. Better products, more choice, and greater opportunities for consumers and businesses, COM(2015) 630 final, 2015.



## THE NEW MEMORANDUM OF UNDERSTANDING BETWEEN THE MEMBERS OF FIN-NET

The main innovations of the Memorandum of Understanding between the Fin-Net-related countries ([Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services](#)), which was approved at the meeting held in April 2016 and entered into force on 16 May 2016, concern: (a) subdivisions between members of the network (ADR bodies recognized pursuant to Directive 2013/11/EU, including Italy's Banking and Financial Ombudsman) and temporary members (ADR systems for which recognition from the relevant national competent authority is pending; a two-year transitional period, effective from 16 May 2016, was granted to temporary members to achieve compliance); and (b) membership of affiliated members, i.e. ADR bodies operating in countries where Directive 2013/11/EU is not applicable (e.g. Switzerland).

In the first months of 2017, a survey on the main features of the members of Fin-net was carried out on the initiative of the Bank of Italy. The survey involved 32 bodies from 20 different countries and provided information about the members of the network.

### *Survey results*

The overall picture provided by the survey shows that the Fin-Net system is very varied as regards the sectors of jurisdiction and the procedural features of ADR systems.

About half of the bodies' authority extends exclusively to disputes concerning only one financial sector (banking, investment or insurance services). Just over a quarter of ADRs have authority extending to more than one sector and they rarely deal with disputes not concerning the financial sectors.

Private ADRs are slightly more prevalent. In about two-thirds of cases, adherence to the system is mandatory for intermediaries.

Access to the ADR body is allowed in most cases both for consumers and professionals (sometimes with limitations for the latter); it is also allowed for intermediaries in a few cases.

Access to the system is generally free of charge and in most cases it requires the submission of a preliminary complaint to the intermediary. The assistance of an attorney is never necessary.

Usually only documentary evidence is admitted. Approximately one third of the schemes also allow witnesses to be called.

In most cases the procedure ends with the adoption of a recommendation or a decision non-binding to the parties, which are free to submit the matter to the judicial authorities. In some cases the non-compliance of an intermediary with a decision is published.

However, some ADRs are empowered to issue a binding decision. In these cases, the enforceability of the decision is usually subject to certain conditions. For example, in Germany, two private bodies operating in the investment funds sector<sup>2</sup> can issue decisions binding on the intermediary only if accepted by the client and if the value of the dispute does not exceed €10,000; the decisions of the Financial Ombudsman Service (FOS), an ADR scheme operating in the United Kingdom in banking, insurance and investment services sectors, are binding only if accepted by the customer.

In many cases, the systems initially pursue conciliatory purposes, favouring a settlement agreement between the parties, sometimes by means of a dedicated preliminary phase. For example the procedure brought before the FOS only reaches the decision stage if the previous conciliatory phase fails.

Only a small number of ADR entities perform exclusively conciliatory functions.

Only a few systems provide for an appeal against the decision issued;<sup>3</sup> in these cases, new elements are needed as grounds for revision.

Finally, in many cases the information obtained through the ADRs' activity is used for supervisory purposes. In some cases, the ADR body reports the behaviours of intermediaries violating sectoral legislation to the competent authority.<sup>4</sup> Sometimes, for example in Spain, the information flow is also privileged because the ADR body is established within the supervisory authority.<sup>5</sup> In other countries the collaboration is less intense, as the data transmitted by the ADR to the supervisory authority are only statistical (e.g. the volume of disputes and the recurring issues) and do not include information about individual cases and individual intermediaries.<sup>6</sup>

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<sup>2</sup> The Ombudsstelle für Investmentfonds (Ombudsman Scheme for Investment Funds) and the Ombudsstelle für Sachwerte und Investmentvermögen e.V. (Real Asset Investment Arbitration Board).

<sup>3</sup> The Realkreditankenævnet (The Danish Mortgage Credit Complaint Board) operating in Denmark in the mortgage sector; the Commission de Surveillance du Secteur Financier (Financial Sector Supervisory Commission), a Luxembourg ADR active in the banking and investment services sector; the Ombudsman der Privatversicherung und der Suva (Ombudsman of Private Insurance and of Suva) and the Schweizerischer Bankenombudsman (Swiss Banking Ombudsman), bodies active in Switzerland respectively in the insurance sector and in the banking and investment services sector.

<sup>4</sup> For example, in the United Kingdom, on the basis of a specific Memorandum of Understanding, the FOS is required to provide the Financial Conduct Authority (FCA) with information on the volume and content of the appeals received and to report intermediaries who acted in breach of the law. In Germany, the regulatory framework has recently established the duty of ADR bodies to provide the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) with information obtained during their proceedings and concerning the behaviour of intermediaries which might significantly affect the interests of customers (see the provisions of the Finanzschlichtungsstellenverordnung - FinSV, Section III, paragraph 23).

<sup>5</sup> In particular, the Departamento de Conducta de Mercado y Reclamaciones of the Banco de España, an ADR body operating in the banking sector, is established at the Spanish banking supervisory authority; a different body, active in the investment services sector, was set up under the Comisión Nacional del Mercado de Valores, the investment services supervisor; finally, the Servicio de Reclamaciones, an ADR body operating in the insurance sector, is established at the Dirección General de Seguros y Fondos de Pensiones.

<sup>6</sup> This is the case, for example, of the Ombudsfm, the Belgian body whose scope extends to banking and investment services, or of the Schlichtung für Verbrauchergeschäfte (Arbitration Board for Consumer Businesses), an Austrian body operating in all the financial sectors.

## *The U.S. Consumer Financial Protection Bureau Ombudsman's Office*

The Consumer Financial Protection Bureau Ombudsman's Office (CFPB Ombudsman's Office) is an independent office at the CFPB. The CFPB Ombudsman's Office does not resolve disputes between customers and intermediaries but it assists and advises the parties (customers or financial entities) in resolving process issues

### **THE CONSUMER FINANCIAL PROTECTION BUREAU**

The Consumer Financial Protection Bureau (CFPB) is an independent federal agency established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 with the objective of protecting consumers of banking and financial services and promoting fairness and competition in financial markets.

The CFPB is an independent agency within the Board of Governors of the Federal Reserve System (Federal Reserve), the governing body of the Federal Reserve System with monetary policy and financial supervision responsibilities.

The Bureau's functions and responsibilities can be grouped into five areas: oversight of the protection of consumers against abusive, unfair, and deceptive practices by financial intermediaries; enforcement of consumer protection financial laws; financial education; consumer complaints; and financial market monitoring to identify potential risks for consumers.

arising from CFPB activities.

The Ombudsman provides assistance (not only to consumers but also to financial entities) in resolving issues arising from CFPB activities, in all matters under the responsibility of the Bureau.

The Ombudsman does not advocate for one side, but guarantees a fair process.

In carrying out its functions, the Ombudsman must adhere to the principles of independence, impartiality and confidentiality.

To preserve its independence, the Ombudsman's Office is established as an independent office within the structure of the CFPB: it is placed outside of the Bureau's organization units and it reports directly to the Directors. Impartiality requires that the Ombudsman aims at a fair process, independently of the interests of the parties.

The CFPB Ombudsman is appointed by the Bureau. The functions of the Ombudsman are specified in the Ombudsman Charter and cover individual and systemic process issues with respect to all activities of the CFPB, from supervision to enforcement, consumer complaints, supervisory reviews, and interagency disputes. The Ombudsman's authority does not extend to disputes for which a judicial proceeding is pending.

Anyone who has a process issue from interacting with the CFPB may contact the Ombudsman after failing to resolve the issue with the CFPB itself; in this respect, the Ombudsman acts as the office of last resort.

Access to the Ombudsman is voluntary and free. Anyone (an individual consumer, a financial entity or a trade association) may contact the Ombudsman by telephone, email or in writing to ask for help to resolve the submitted issues.

The Ombudsman may provide information on the possible lines of action, facilitate an agreement among the interested parties and bring systemic issues to the attention of the CFPB.

The Ombudsman may also raise issues about procedural shortcomings in the interest both of the Agency and the public or submit recommendations to the CFPB.

The CFPB Ombudsman's Office reports annually to the CFPB Director; the annual report covers the Ombudsman activities and is published on the Office's webpage.



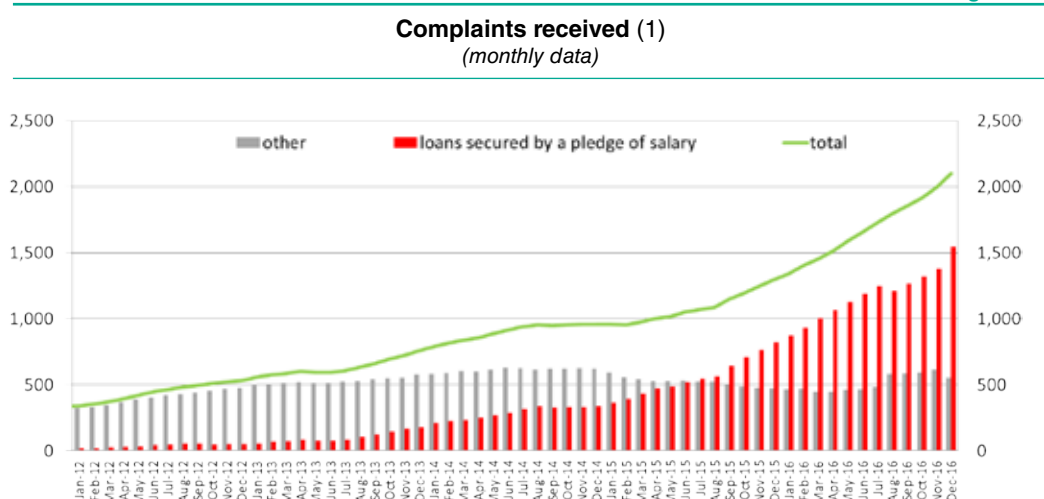


### 3. DATA ON COMPLAINTS AND OPERATIONS

#### OVERVIEW

The increase in the number of complaints received by the Banking and Financial Ombudsman accelerated in 2016; the complaints increased in 2016 by 59 per cent (21 per cent in 2015); the monthly average rose from 1,132 to 1,804 (Figure 3.1).

Figure 3.1



(1) Four-month moving average ending in the reference month; based on seasonally-adjusted data.

The rise in complaints is due to a strong increase in those regarding loans secured by a pledge of one-fifth of salary or pension (106 per cent); excluding this category, the number of complaints increased only slightly (by 3 per cent).

The majority of complaints were filed by consumers (96 per cent).

In 2016, 220 panel meetings were held (195 in 2015), deciding an average of 63 cases per meeting (54 in 2015) for a total of 13,770 cases (10,450 in 2015); in 75 per cent of the cases the decision was substantially in favour of the complainant. The intermediaries almost always complied with the ABF's decisions (a compliance rate of more than 99 per cent).

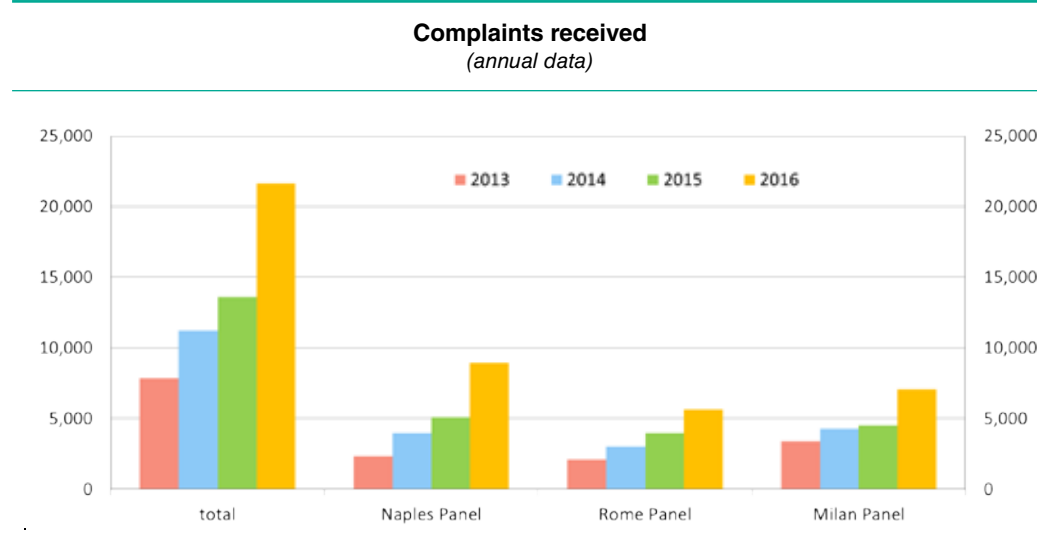
The sub-sections that follow provide data on the complaints submitted to the ABF (amounts and characteristics) as well as the outcomes and activities of the panels.

### 3.1 DEMAND

#### Aggregate data

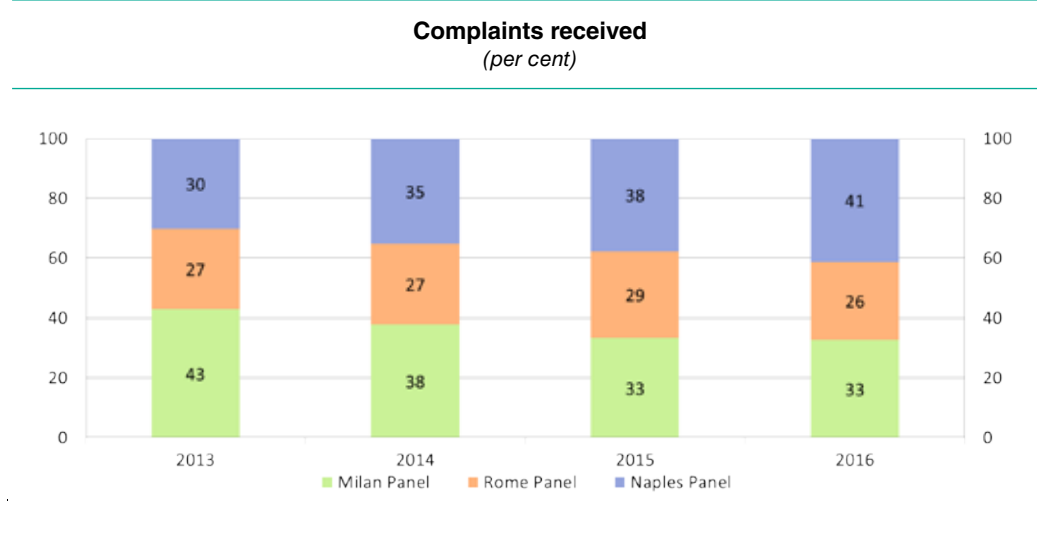
In 2016 the ABF received 21,652 complaints. The increase in the number of complaints was higher for the Naples panel (74 per cent), but it was also significant for the Milan panel (56 per cent) and for the Rome panel (44 per cent; Figure 3.2). Among the regions, Calabria and Sicily reported the largest increase (237 and 190 per cent respectively); complaints filed by complainants with a foreign domicile have decreased.

Figure 3.2



Of the complaints received, 41 per cent were submitted to the Naples panel, 33 per cent to the Milan panel and 26 per cent to the Rome panel (Figure 3.3).

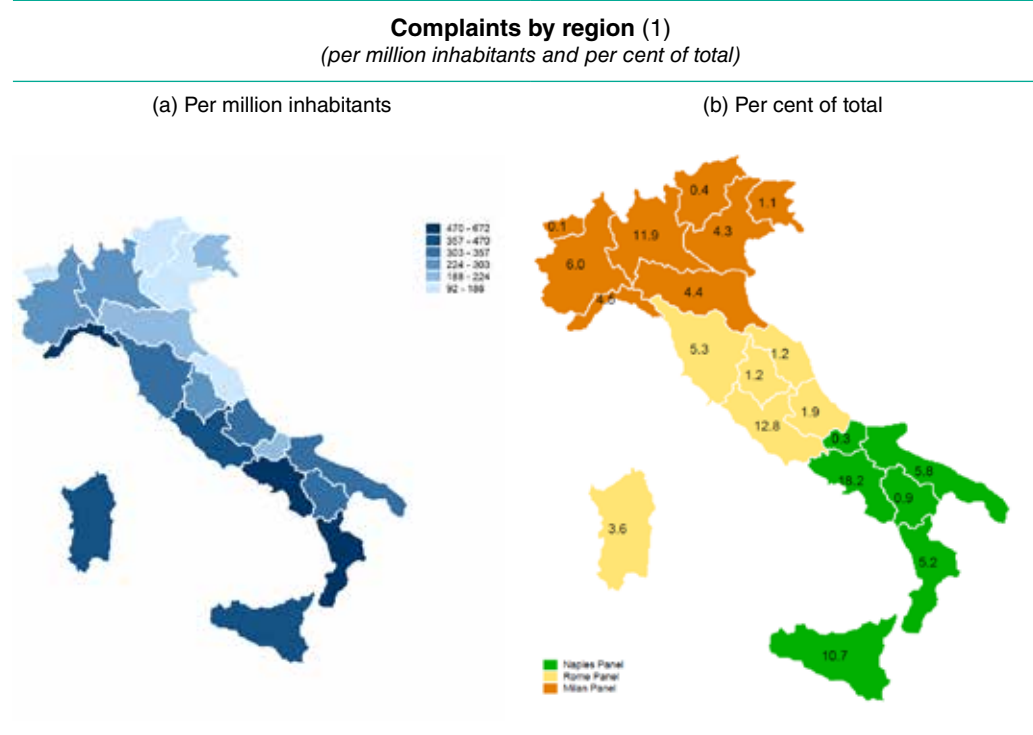
Figure 3.3





Campania, Liguria, Calabria and Lazio are the regions where the most complaints were submitted in proportion to the population. In absolute value, most of them were submitted in Campania, Lazio, Lombardy and Sicily (Figure 3.4.a and Figure 3.4.b).

Figure 3.4



Foreign countries  
Sources: Based on ABF and Istat data.  
(1) Resident population as at 1 January 2016.

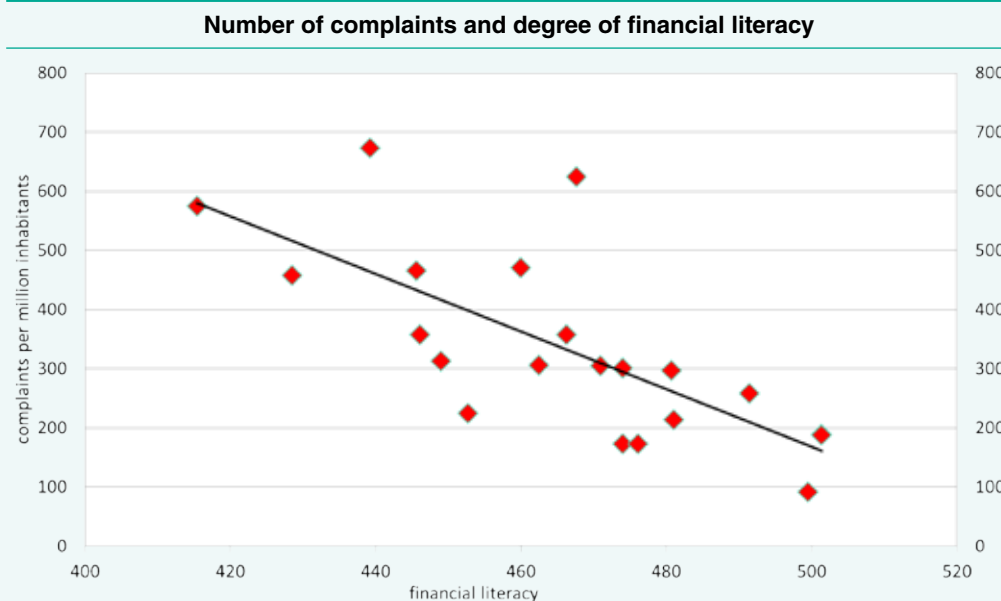
## THE NUMBER OF COMPLAINTS, THE DEGREE OF FINANCIAL LITERACY AND RELATIVE POVERTY IN THE ITALIAN REGIONS

The number of complaints received is correlated with the level of awareness and knowledge of complainants with reference to the characteristics of the banking and financial services and products.<sup>1</sup> Figure A shows how in 2016 the number of complaints per million inhabitants is greater in those regions where financial skills are estimated to be lower.<sup>2</sup>

<sup>1</sup> A.F. Pozzolo, *ADR, Giustizia ordinaria ed educazione finanziaria*, presentation at the conference held at Consob: *I metodi alternativi di risoluzione delle controversie (ADR). L'Arbitro per le controversie finanziarie (ACF): primi passi e prospettive*, Rome, 20 April 2017.

<sup>2</sup> The measure of financial literacy is based on the results of the OECD Programme for International Student Assessment (PISA) held in 2012 on the financial education of 15-year old students. The PISA Assessment represents the most important test taken, every three years, by the OECD to evaluate, on an international scale, the skills of students in mathematics, science, reading and, since 2012, also in financial literacy.

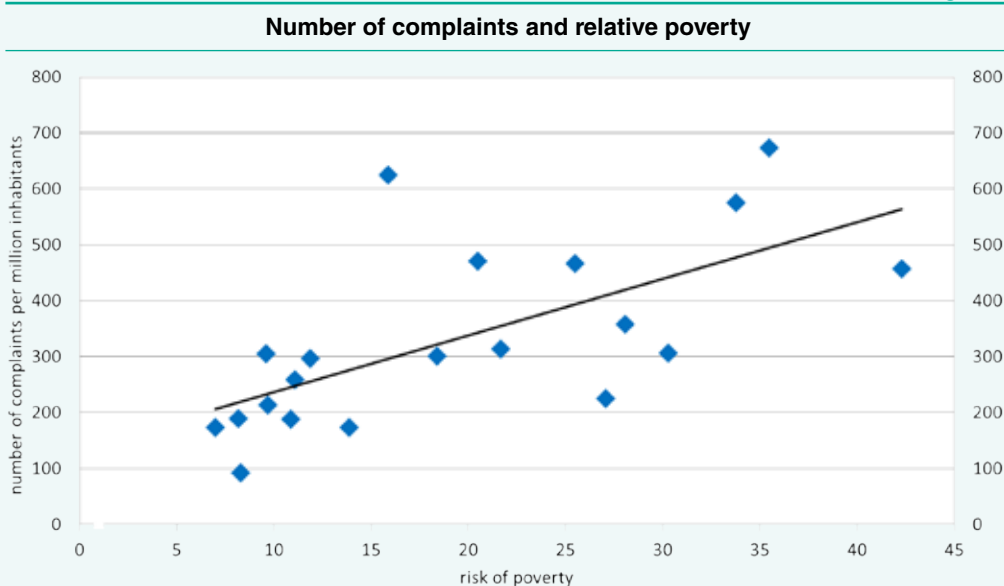
Figure A



Source: Based on ABF and OECD-PISA data.

The number of complaints is instead positively associated with the risk of poverty<sup>3</sup> measured in Italian regions (Figure B); those in which the highest percentage of individuals with a very low family income live register a higher number of complaints.

Figure B

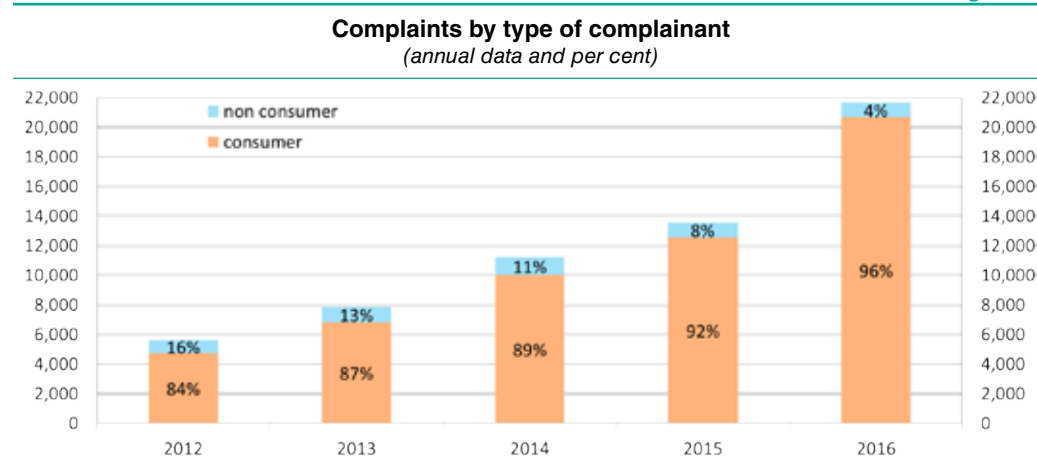


Source: Based on ABF and Istat data.

<sup>3</sup> The poverty risk threshold (Europa 2020 indicator) is calculated as the percentage of people living in families with an equivalized disposable income, in the year previous to the one which is being scrutinized, lower than 60 per cent of the national median equivalized disposable income (see Istat, Year 2015. Standard of living and income, 'Statistical report', 6 December 2016).

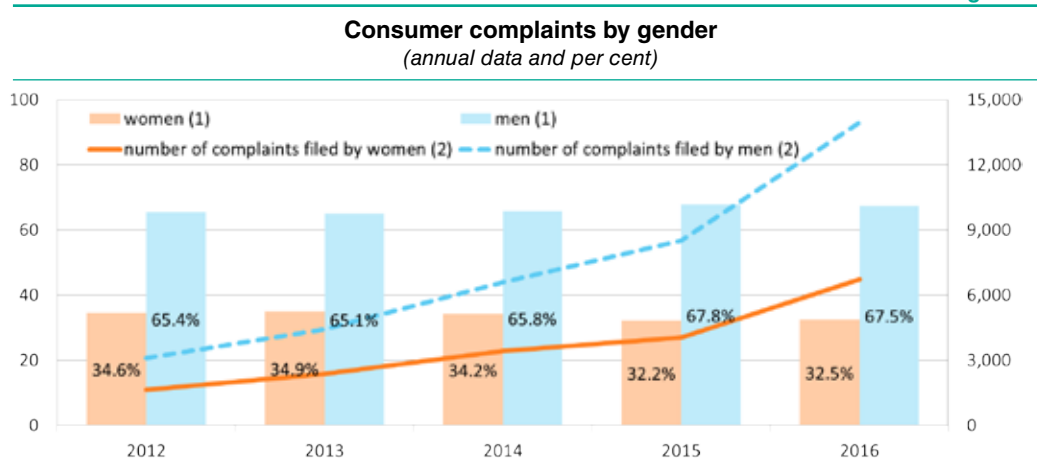
The increase in complaints in 2016, as in 2015, was exclusively due to the growth in consumer complaints, up by more than 65 per cent; instead, those submitted by non-consumers fell both in absolute and in percentage value (958 in 2016; 1024 in 2015; -6 per cent). The share of consumer complainants grew to 96 per cent (Figure 3.5).

Figure 3.5



Among consumers, there was an increase in the number of complaints submitted by both men and women (64 and 66 per cent respectively; Figure 3.6). Last year, the former accounted, as in 2015, for 68 per cent of the total, with a different distribution depending on the region (less than 60 per cent in Tuscany, Emilia-Romagna, Liguria and Molise; about 75 per cent in Puglia and Campania).

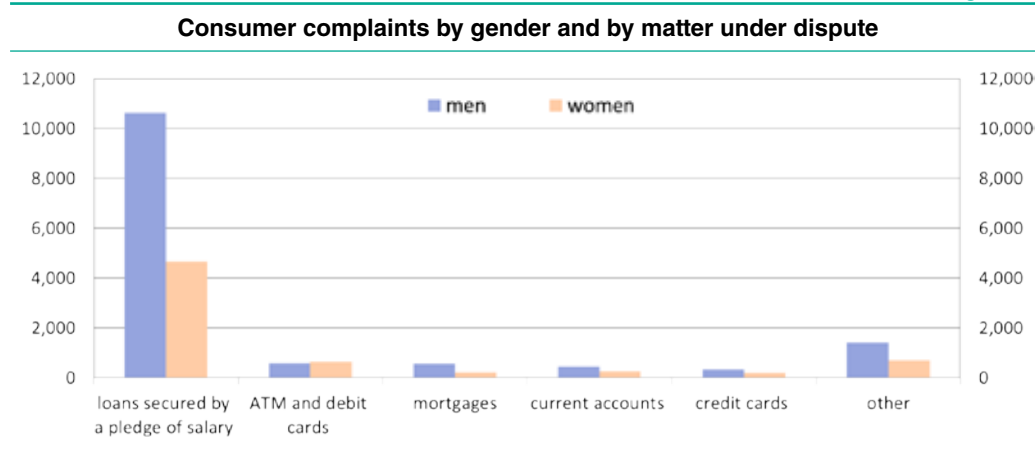
Figure 3.6



(1) Per cent. – (2) Right-hand scale.

Some 70 per cent of the complaints submitted by women and 77 per cent of those submitted by men concerned loans secured by a pledge of one-fifth of salary. Complaints relating to ATM cards and debit cards had the second highest incidence of filing for both genders (10 and 4 per cent, respectively), while for women the third most frequent complaint concerned current accounts and for men, mortgages (Figure 3.7).

Figure 3.7

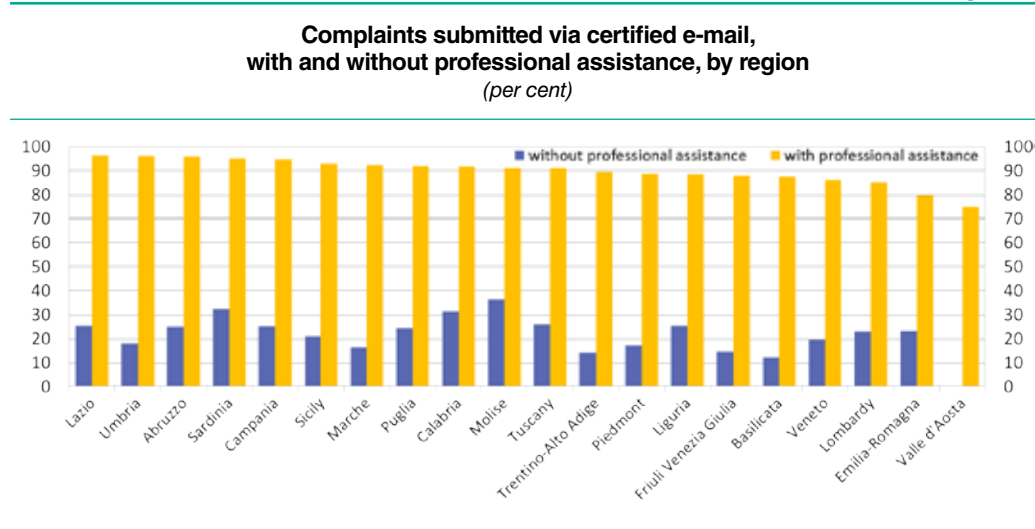


Complaints concerning ATM and debit cards were the only matter under dispute for which female complainants (53 per cent) outnumbered their male counterparts; for those involving savings deposits, credit cards and current accounts, the share of female complainants was high (at 44, 38 and 37 per cent respectively).

Consumer complainants had an average age of 54 (52 in 2015). For complaints involving savings deposits, the average age was higher (59). For those concerning credit reporting agencies the complainants were generally younger (48).

In 2016 a higher number of customers (82 per cent) than in 2015 (54 per cent) submitted their complaints via certified e-mail. For complaints filed with the assistance of a professional, the share jumps to 92 per cent, while for those filed directly by the consumer it falls to 23 per cent. The share of consumer complaints submitted via certified e-mail varies greatly by region, in particular with reference to the complaints filed directly by the complainant (Figure 3.8).

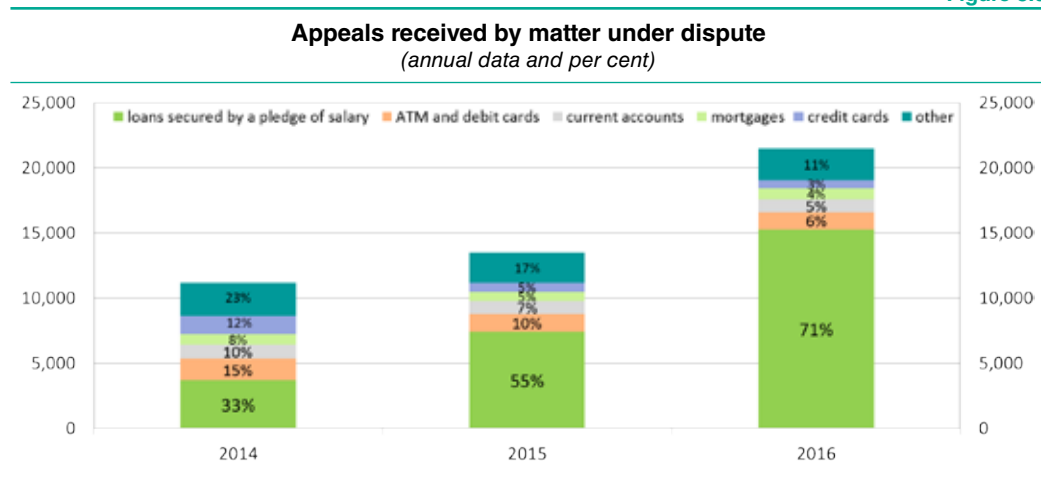
Figure 3.8



## Matters under dispute

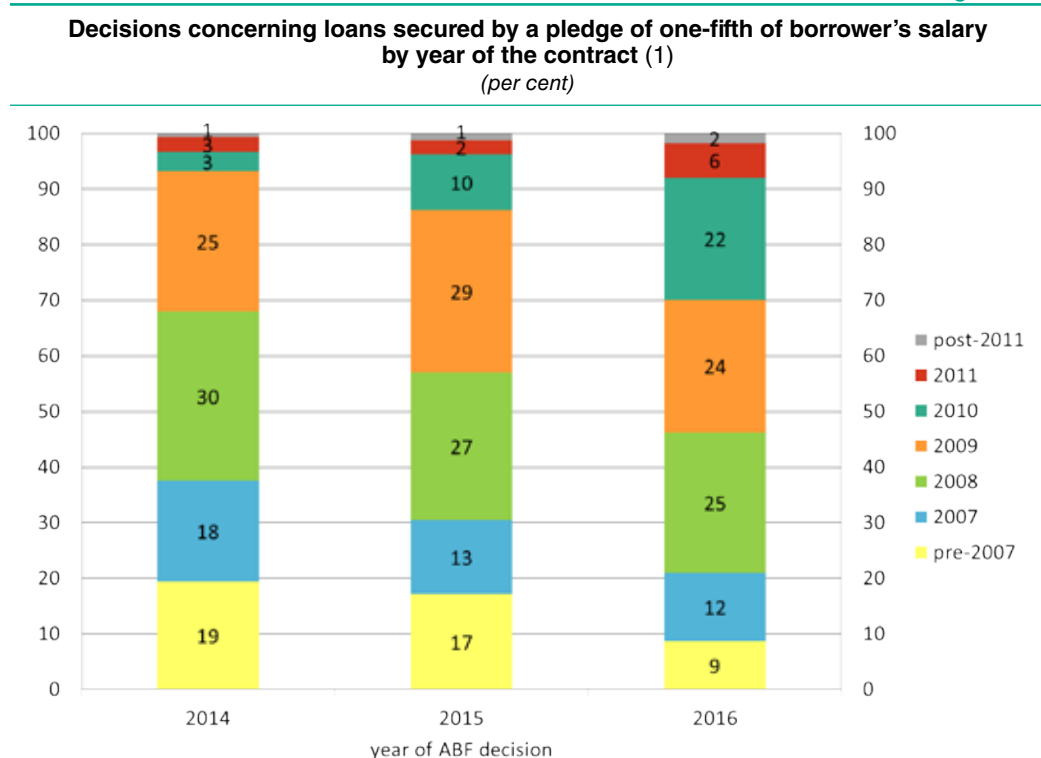
Complaints involved a variety of matters, with some changes in the distribution and in the issues involved. Disputes concerning loans secured by a pledge of one-fifth of borrower's salary doubled in 2016 as well, accounting for more than 71 per cent of all complaints (Figure 3.9).

Figure 3.9



Disputes concerning loans secured by a pledge of one-fifth of borrower's salary continue to involve mainly contracts signed prior to the Bank of Italy's 2009 and 2011 supervisory communications to the intermediaries (Figure 3.10).

Figure 3.10



(1) For the year 2016, the data are based on a representative sample of decisions.



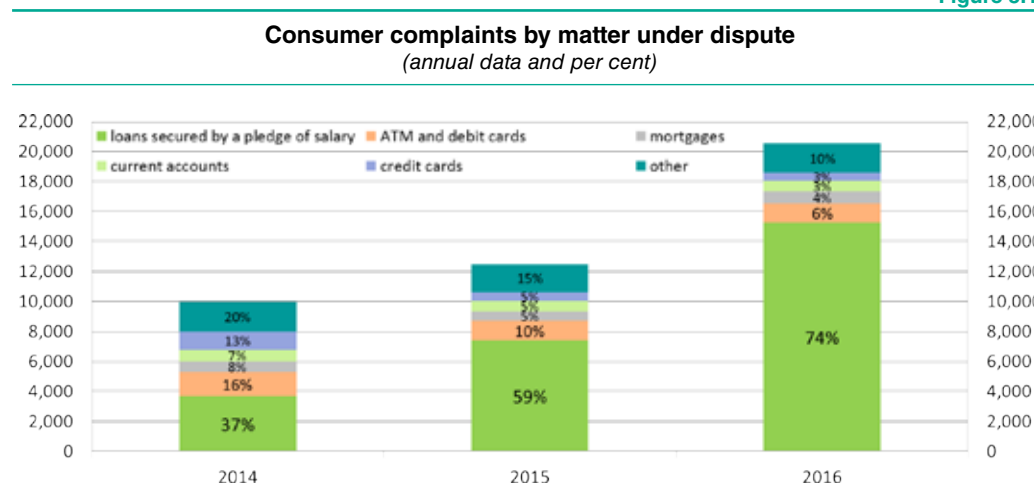
With reference to other matters most frequently subject to dispute, the number of complaints fell for credit cards, ATMs and debit cards, savings deposits and credit reporting agencies; those on current accounts are stable; complaints related to the Central Credit Register, mortgage, consumer credit and other types of funding have increased (Table 3.1).

**Table 3.1**

<b>Complaint by matter under dispute: 2015-2016</b>					
<b>MATTER UNDER DISPUTE</b>	<b>2016</b>		<b>2015</b>		<b>Variation % 2016/2015</b>
	<b>No.</b>	<b>% of total</b>	<b>No.</b>	<b>% of total</b>	
Loans secured by pledge of one-fifth of salary	15,297	71	7,414	55	106
ATM and debit card	1,296	6	1,361	10	-5
Current account	995	5	982	7	1
Mortgage	864	4	729	5	19
Financing (other)	634	3	431	3	47
Credit card	617	3	676	5	-9
Savings deposits	335	2	406	3	-17
Credit reporting agencies	299	1	360	3	-17
Consumer credit	209	1	179	1	17
Central Credit Register	209	1	166	1	26

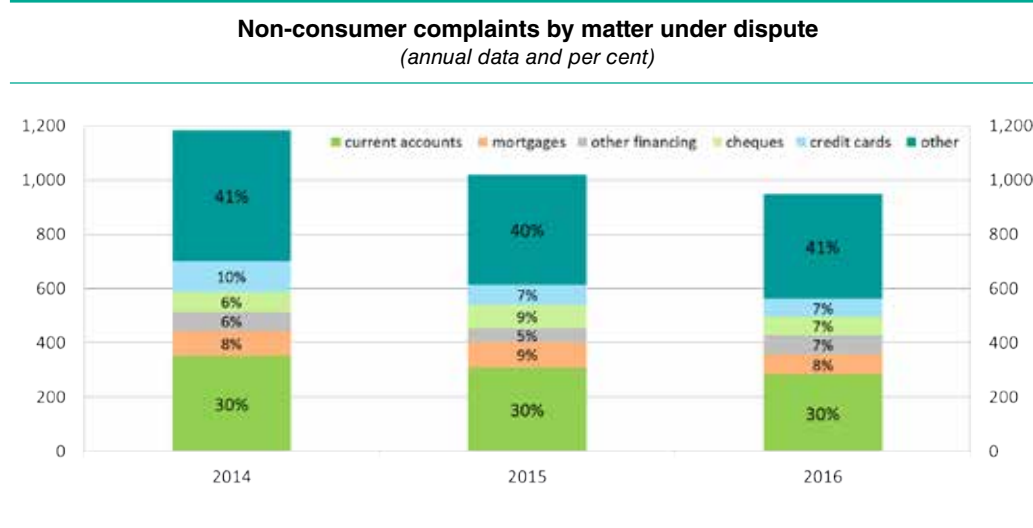
The breakdown by matter under dispute varies according to the type of complainant (consumer or non-consumer). With regard to consumers, the share of complaints concerning loans secured by a pledge of salary increases, while those concerning current accounts decreases (Figure 3.11).

**Figure 3.11**



Among non-consumers, there was a higher incidence of complaints regarding current accounts (Figure 3.12).

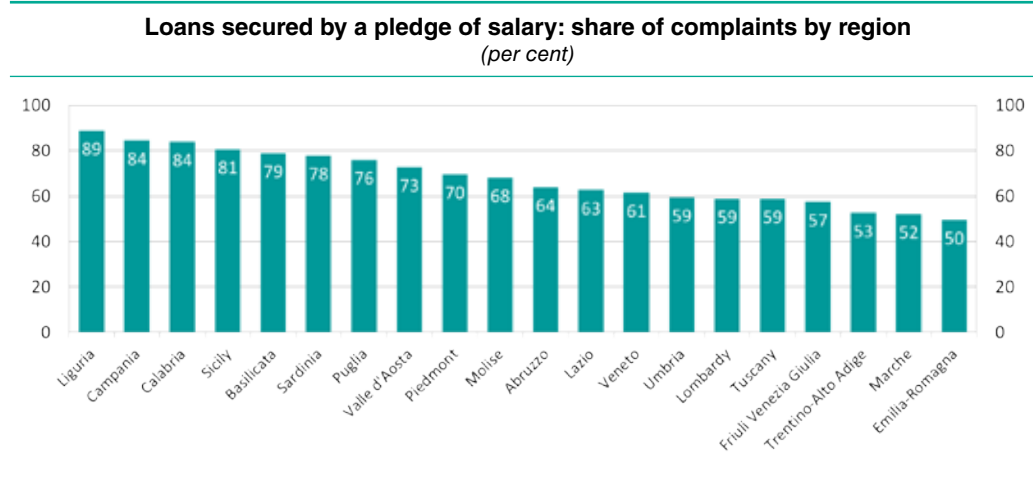
Figure 3.12



Last year, more than 3,000 complaints involving loans secured by a pledge of salary were filed in Campania (more than 2,000 in Sicily and Lazio). The largest number of complaints involving current accounts, credit cards, ATM and debit cards was filed in Lombardy and Lazio.

Complaints involving loans secured by a pledge of salary accounted for more than 80 per cent of complaints in Liguria, Campania, Calabria and Sicily; they account for half of the complaints in Emilia-Romagna (Figure 3.13).

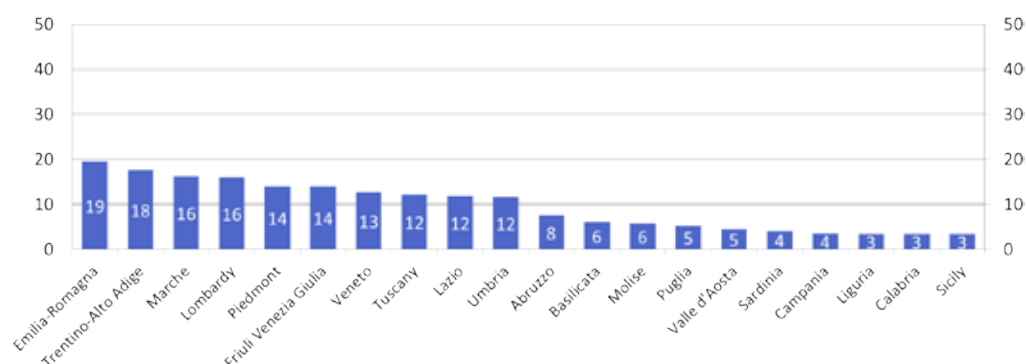
Figure 3.13



In 2016 the incidence of complaints involving electronic payment systems was higher in the Centre and North of Italy, accounting for more than one-fifth of complaints in Emilia-Romagna and Trentino-Alto Adige but no more than 3 per cent in Liguria, Calabria and Sicily (Figure 3.14).

Figure 3.14

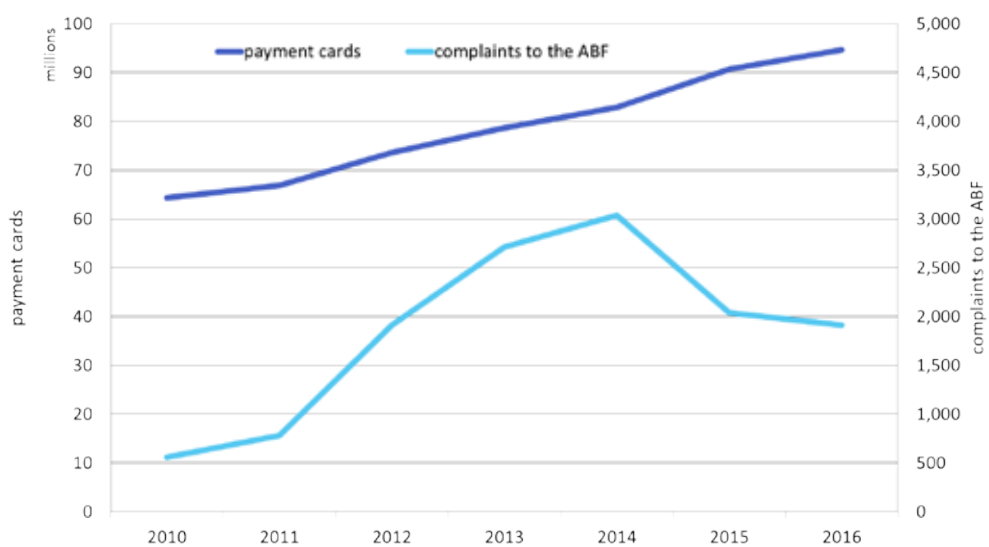
**ATM and debit cards and credit cards: share of complaints by region**  
(per cent)



The number of complaints concerning payment cards (in 85 per cent of the cases involving fraud) is small compared to the number of cards in use in Italy. The decrease in complaints over the last two years is even more significant if it is considered in relation to the ever-increasing use of the instrument (Figure 3.15).

Figure 3.15

**Payment cards: usage and complaints to the ABF**

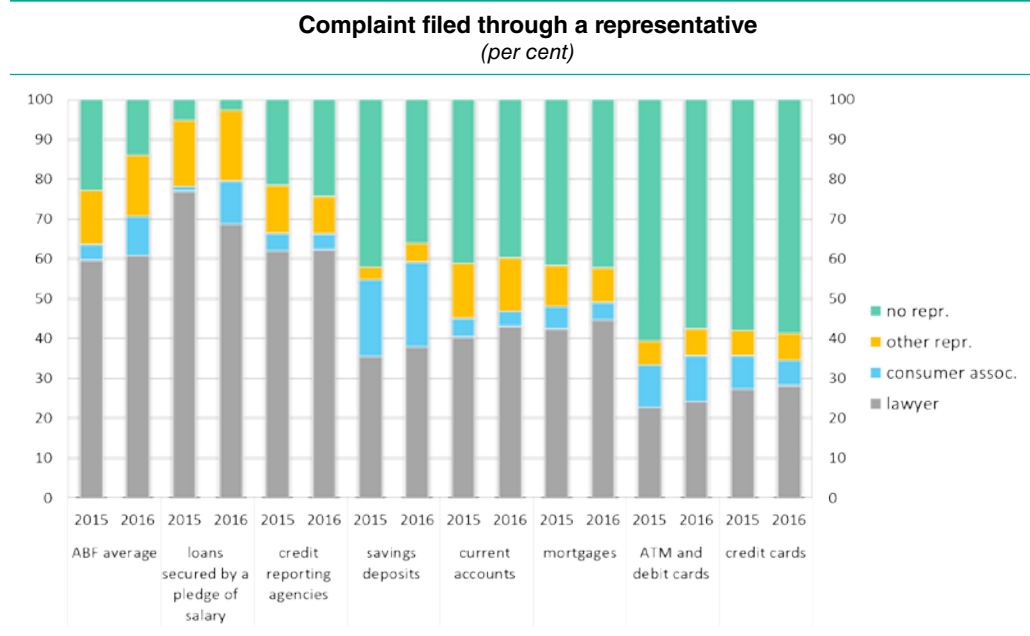


The significant increase in complaints is also due to the role of consulting firms in assisting clients in submitting their complaints to the ABF.

In 2016, 61 per cent of complaints were filed with the assistance of a lawyer (in 2015 60 per cent). The largest share of them involves loans secured by a pledge of salary, although this has decreased compared with 2015 (from 77 to 69 per cent).

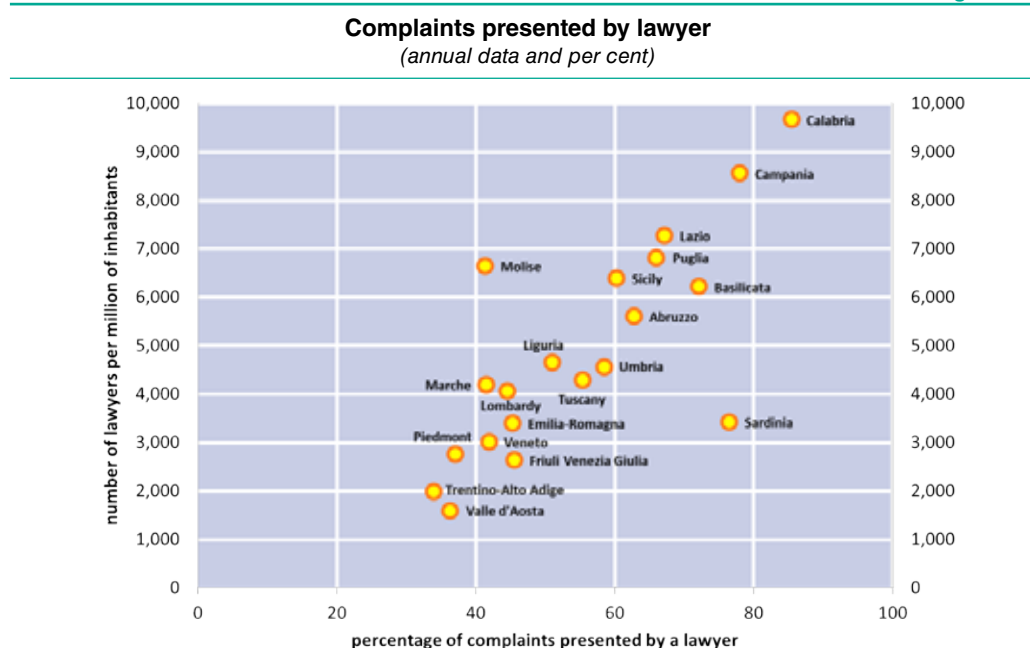
Complaints filed through consumer associations grew both in absolute value (2,136; 545 in 2015) and in percentages (from 4 percent to 10 per cent, Figure 3.16).

Figure 3.16



In 2016, complainants under the jurisdiction of the Naples panel, especially those domiciled in Calabria and Campania, continued to be those most assisted by a professional; the data also reflect the different distribution of lawyers in Italy in relation to the population resident in each region (Figure 3.17).

Figure 3.17

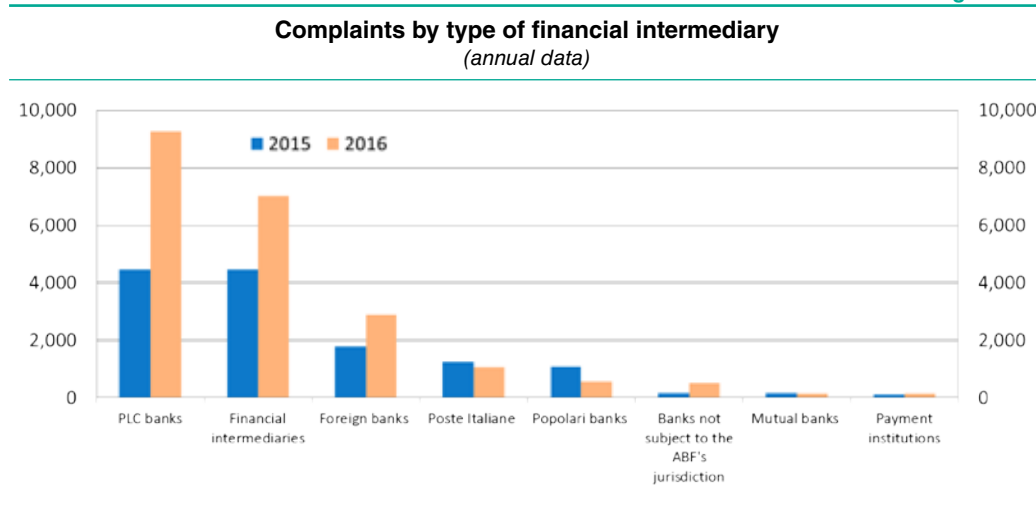


Sources: Based on ABF and Consiglio Nazionale Forense (National Lawyers' Council)

## Types of financial intermediaries

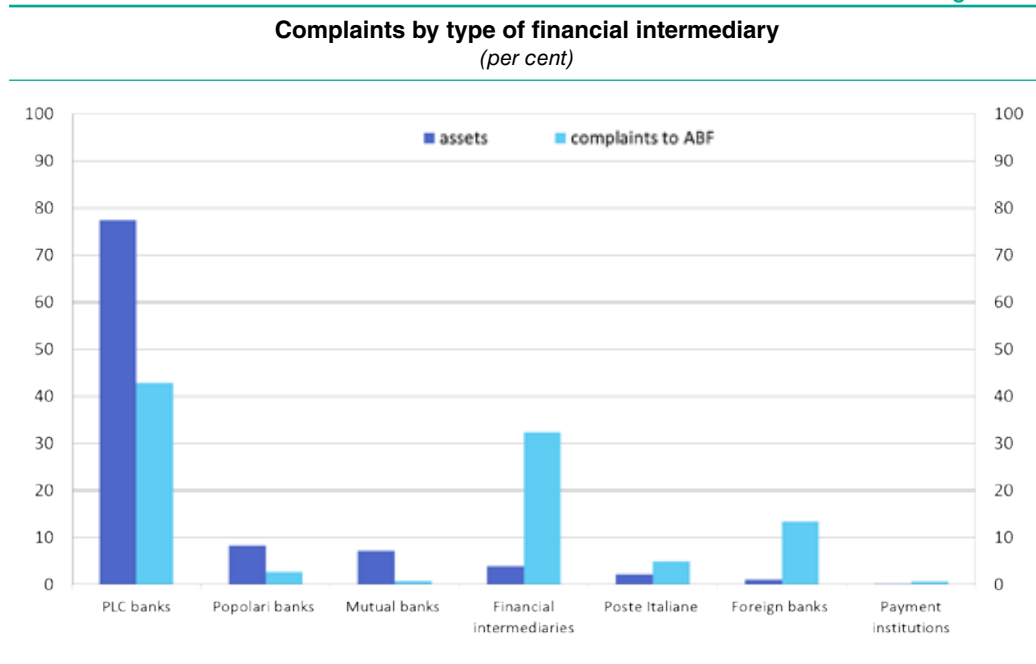
In 2016, there was an increase in the number of complaints against financial intermediaries, foreign banks and banks incorporated as limited companies (57, 60 and 107 per cent respectively). In contrast, there was a sharp decrease in the number of complaints against the popolari banks (partly due to the conversion of some popolari banks into limited companies), from 1,103 in 2015 to 577 in 2016 (-48 per cent; Figure 3.18)

Figure 3.18



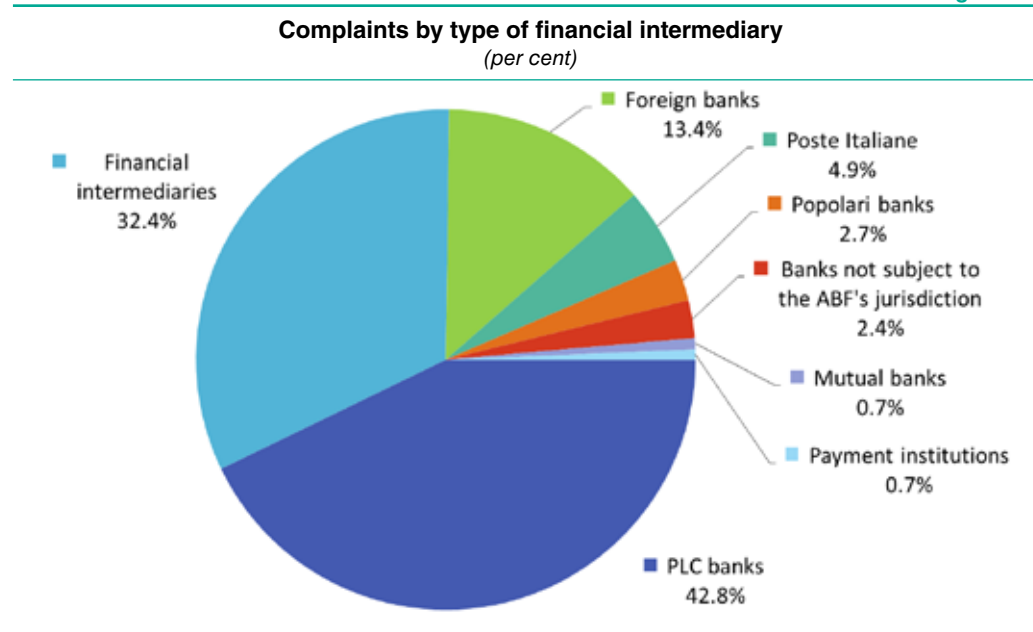
In relation to market shares (expressed in terms of balance sheet assets), the percentage of complaints against mutual, popolari and PLC banks is low; that against financial intermediaries is high (Figure 3.19).

Figure 3.19



The largest share of complaints continue to involve banks incorporated as limited companies (43 per cent; 33 per cent in 2015); the share of complaints against foreign banks and financial intermediaries is stable. The share of complaints against Poste Italiane SpA fell again this year, from 9 to 5 per cent (Figures 3.18 and 3.20).

Figure 3.20



The relative importance of the various matters under dispute varied with the type of financial intermediary. Complaints relating to loans secured by a pledge of salary were the most frequent type of complaint filed against financial intermediaries and foreign banks (accounting for 94 and 87 per cent respectively of complaints filed against those categories); it was also the most common type of complaint lodged against popolari banks and banks incorporated as limited companies. With regard to mutual banks, the most frequent type of complaint concerned current accounts, while almost 70 per cent of complaints against payment institutions involved credit cards (Table 3.2).

Table 3.2

Incidence of matters under dispute by type of financial intermediary (per cent)								
MATTER UNDER DISPUTE	ABF System	PLC banks	Financial intermediaries	Foreign banks	Poste Italiane	Popolari banks	Mutual banks	Payment institutions
Loans secured by pledge of salary	71	61	94	87	0	32	1	0
ATM and debit cards	6	8	0	1	44	11	14	9
Current accounts	5	7	0	1	12	18	29	1
Mortgages	4	6	0	5	0	18	20	0
Financing (other)	3	4	3	1	0	3	6	0
Credit cards	3	4	0	3	6	2	4	69
Savings deposits	2	0	0	0	28	0	1	0
Credit reporting agencies	1	2	1	1	0	2	5	9
Central credit register	1	2	0	0	0	2	2	4
Consumer credit	1	1	1	0	0	0	1	0
Cheques	1	2	0	0	3	4	5	0
Other	2	3	0	1	6	8	12	6
Total	100	100	100	100	100	100	100	100

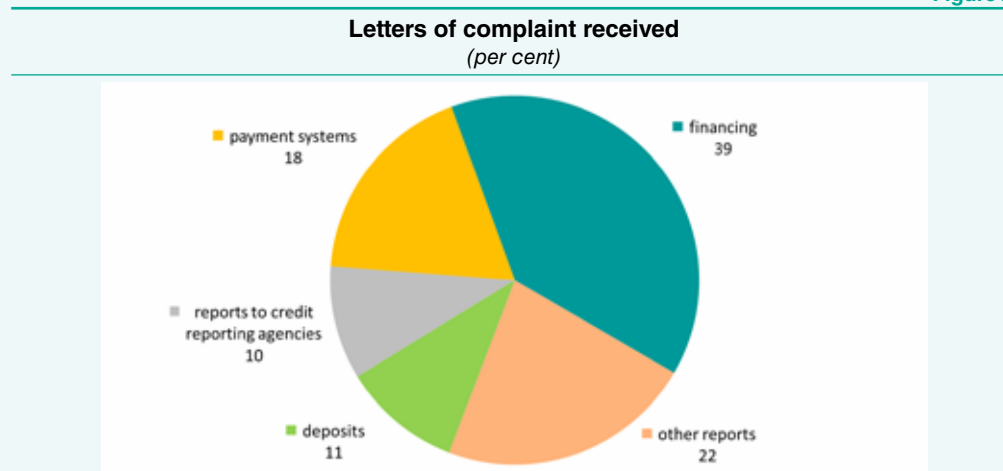


The complaints submitted to the ABF represent a small share of the letters of complaints submitted to intermediaries (which may also relate to cases different from those that can be submitted to the ABF, both in terms of value, the matter under dispute and time limits).

## LETTERS OF COMPLAINT

A quantitative analysis of the main issues and outcomes of the letters of complaint provides a wealth of information relating to the activities of the ABF panels. Based on data from supervisory reports, in 2016 intermediaries received more than 250,000 letters of complaint;<sup>1</sup> about two fifths of them related to financing (Figure A).

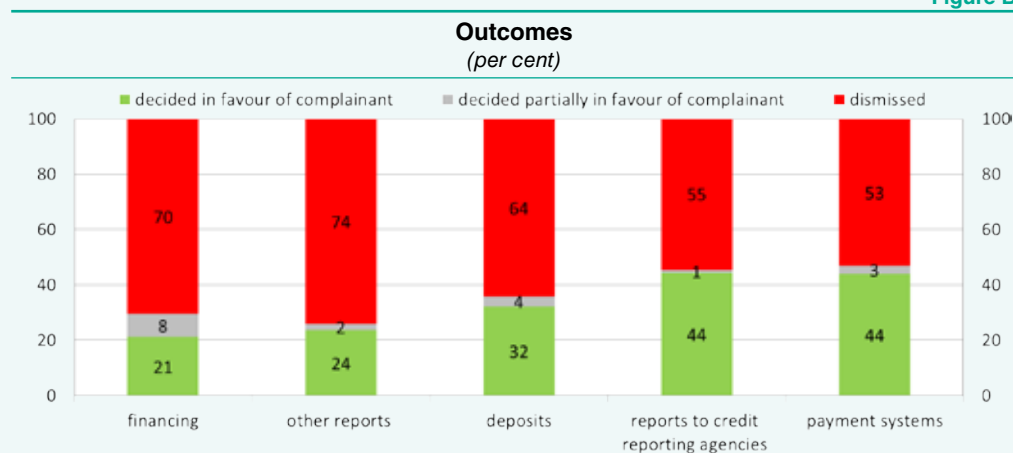
Figure A



Source: Supervisory reports

With reference to the intermediaries who sent the reports for both 2015 and 2016, the letters of complaint increased by 15 per cent. In 2016, approximately 30 per cent of the letters of complaint had a favourable outcome for the applicant; 5 per cent had a partially favourable outcome (respectively 34 and 6 per cent in 2015; Figure B).

Figure B



Source: Supervisory reports.

<sup>1</sup> Such a figure is not comparable to the 190,000 letters of complaint submitted in 2015 since some important intermediaries failed to send reports.

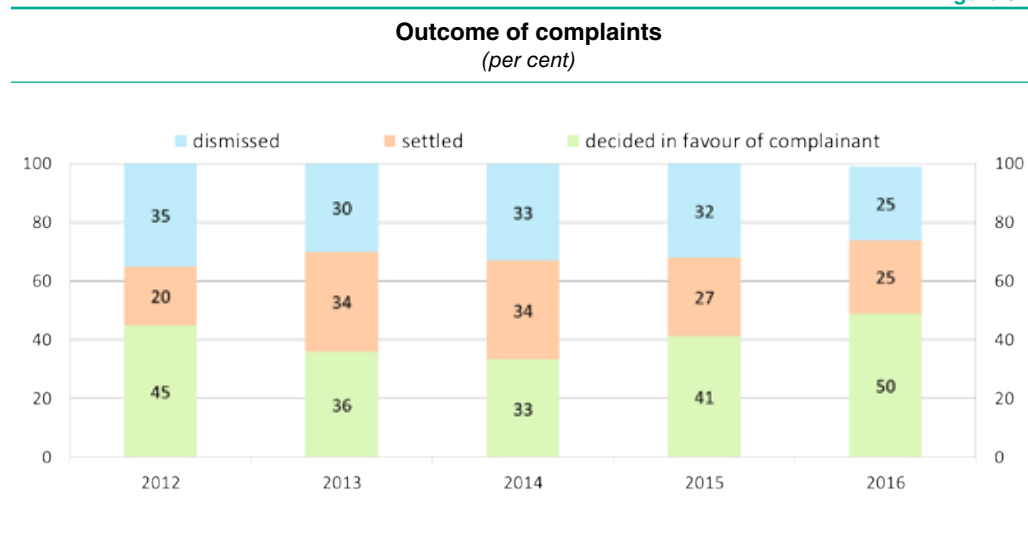
The share of favourable outcomes regarding payment systems and reports to the Central Credit Register is higher than the average.

## 3.2 SUPPLY

### Outcomes

The panels decided an average of 63 complaints per meeting, compared with 54 in 2015. In 75 per cent of the cases the ABF decided substantially in favour of the complainant (68 per cent in 2015); in 50 per cent of the cases the panels upheld the complaints wholly or partially while in the other 25 per cent the parties spontaneously reached an agreement before the proceedings ended with a decision. The panels rejected 25 per cent of the complaints, either because the customer's case was unfounded or not adequately proven, or on procedural grounds (Figure 3.21).

Figure 3.21

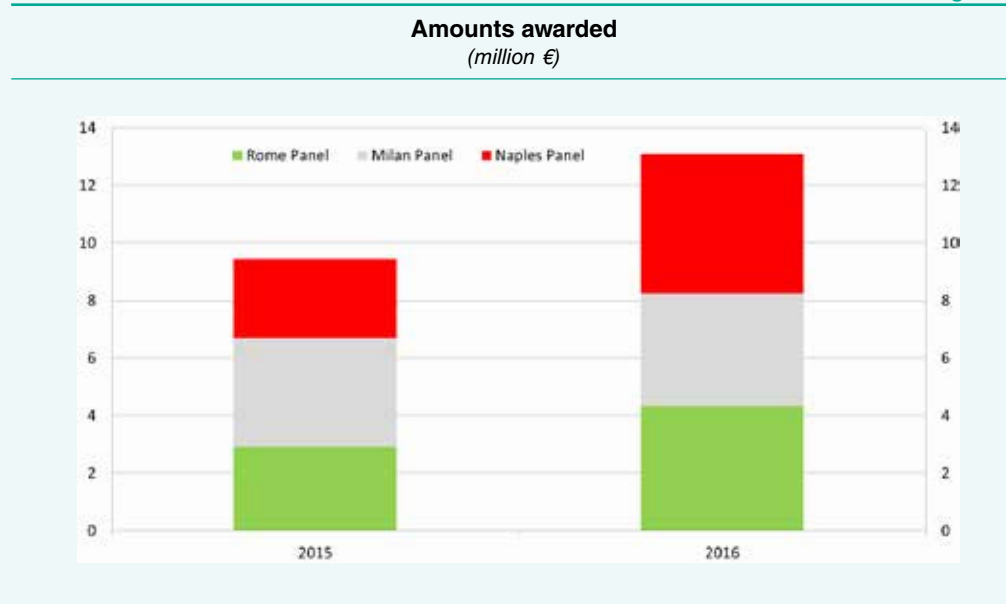


### AWARDS TO COMPLAINANTS

For complaints upheld, the total amount awarded to customers in the past year increased, exceeding €13 million (compared with almost €10 million in 2015). The data is underestimated since it only takes into account the cases for which the panel has determined the amount due to the customer and not those cases where the parties reached an agreement before the proceedings ended. The amounts awarded have been further aggregated with regard to each intermediary; in 2015 the amounts awarded by the first five intermediaries, ordered by value of the amounts awarded, were equal to 43 per cent of the total, while in 2016 this rate increased to above 60 per cent. In 2016, 37 per cent of the amounts awarded

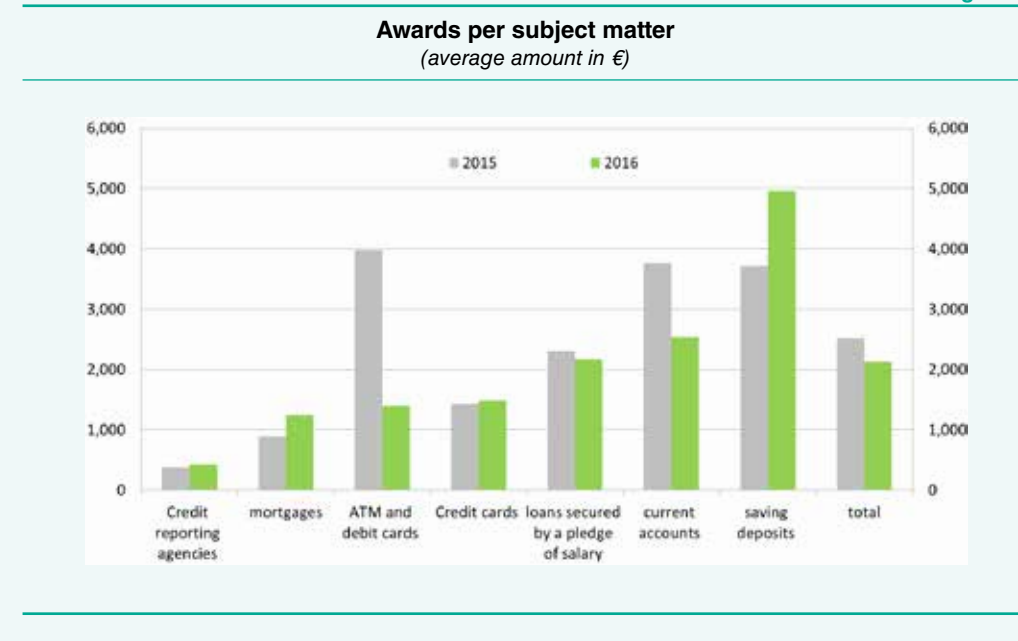
concerned complaints decided in favour of the complainant by the Naples panel, 33 per cent by the Rome panel and 30 per cent by the Milan panel (Figure A).

Figure A



In 2016, the average amount awarded was equal to approximately €2,100 (€2,500 in 2015; Figure B). The higher amounts related to saving deposits, whereas the lower amounts concerned credit reporting agencies. The average value of awards regarding loans secured by a pledge of salary was slightly over €2,000. The average value of awards concerning ATMs instead decreased compared with 2015.

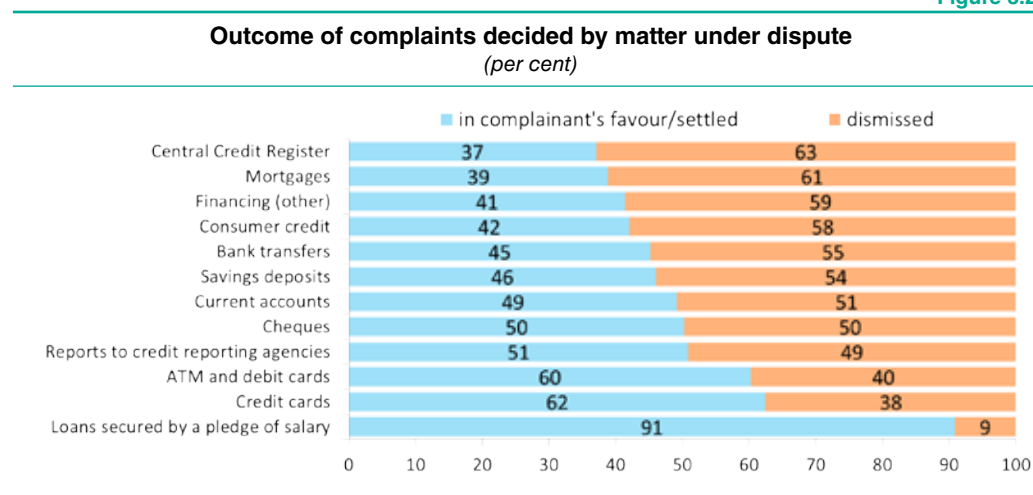
Figure B



The percentage of disputes decided substantially in favour of the clients was greatly affected by the high share (91 per cent) of complaints (upheld or settled by an agreement between the parties) concerning loans secured by a pledge of salary, for which the panels have created a consolidated case law.

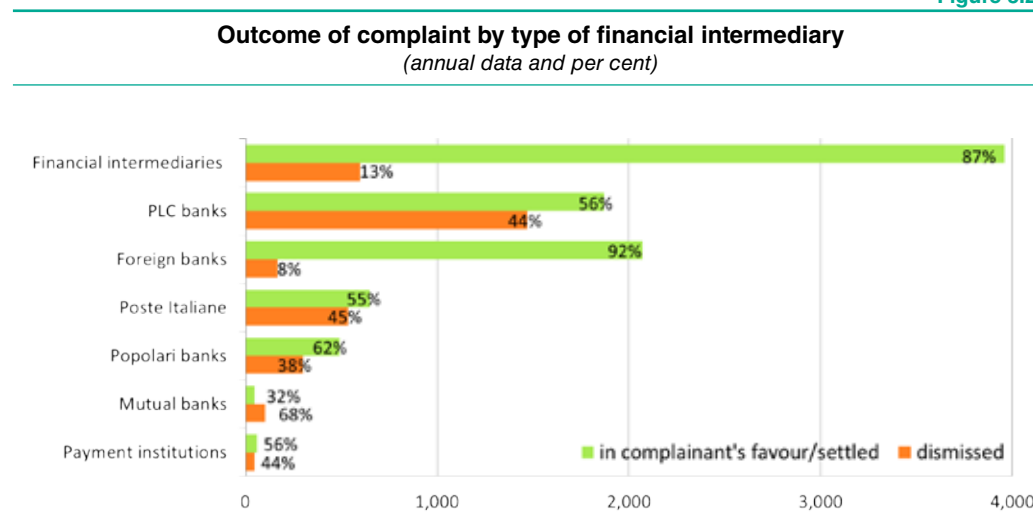
Outcomes differed significantly depending on the matter under dispute: the percentage of cases decided in favour of the complainant or settled was lower for mortgages and Central Credit Register issues and extremely high for loans secured by a pledge of salary (Figure 3.22).

Figure 3.22



Outcomes also differed according to the type of financial intermediary. As in 2015, mutual banks had the lowest rate of adverse outcomes (32 per cent), while foreign banks and financial intermediaries had the highest (Figure 3.23).

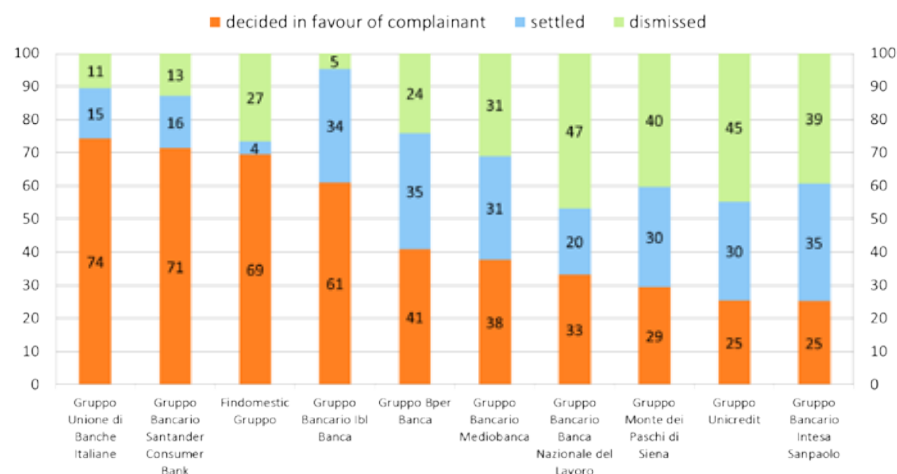
Figure 3.23



The share of cases decided in favour of the complainant, settled by the parties or dismissed also differed greatly between individual financial intermediaries and banking groups (Figure 3.24).

Figure 3.24

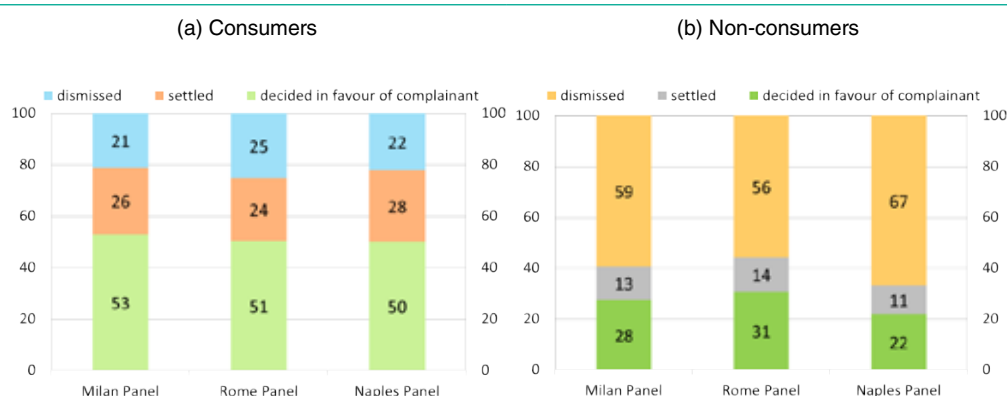
### Outcome of complaint by banking group (per cent)



An analysis of the outcomes of complaints according to panel and type of complainant (consumer and non-consumer) shows that for all three panels the percentage of substantially positive outcomes (decisions in favour of the complainant and settlements before decision) is higher for consumers. The difference reflects the higher incidence of disputes involving loans secured by a pledge of salary, ATM and debit cards, which are complaints that have higher success rates (Figure 3.25.a and 3.25.b).

Figure 3.25

### Outcome of complaint by type of complainant and panel (per cent)



In 2016, the non-compliance rate was less than 1 per cent, thus confirming the effectiveness of the ABF, even though its decisions are not binding (see Box: ABF and ordinary justice).

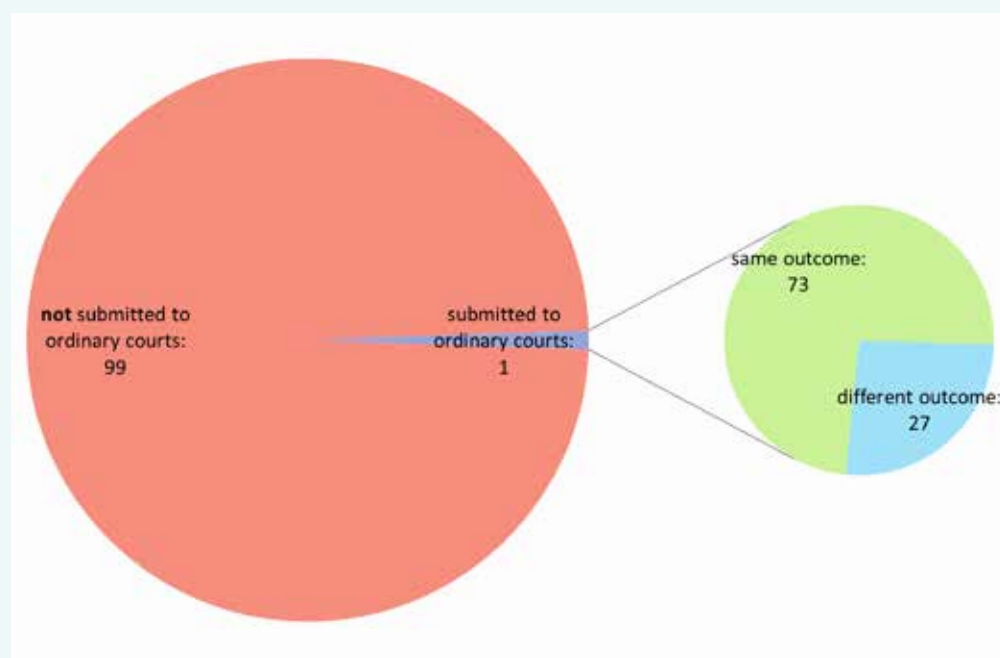
## THE ABF AND ORDINARY JUSTICE

The Ombudsman's decisions are not legally binding on the customer or on the financial intermediary and they do not rule out the possibility of submitting the dispute to the civil courts.

In the first months of 2017, a survey was conducted among the main intermediaries (based on the number of appeals received in the three-year period 2014-16) in order to obtain information on disputes submitted (by claimants or intermediaries) to the ordinary judges following the decisions of the ABF; the information obtained from 15 intermediaries<sup>1</sup> shows that 1 per cent of the ABF disputes were then submitted to an ordinary judge. In 96 per cent of cases the submission to the ordinary court comes from the client and in 73 per cent of cases the ABF's decision was confirmed (Figure A). Almost half of the appeals to the civil courts concerned consumer credit and particularly loans secured by a pledge of one-fifth of salary.

Figure A

### Disputes submitted to ordinary courts (per cent)



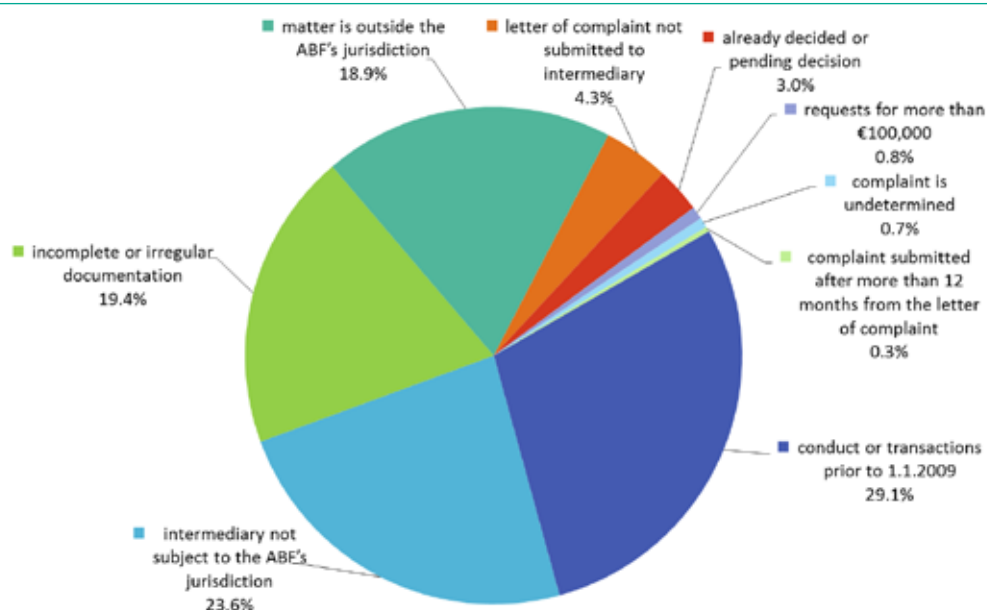
<sup>1</sup> Representing 32 per cent of the complaints decided by the ABF from 2010 to 2016.

In 2016, 2.8 per cent of the complaints submitted were rejected as inadmissible by the Chair of the Panel against 3.4 per cent in 2015; of these, 29 per cent were rejected because the conduct or transaction occurred prior to 1 January 2009 (31 per cent in 2015; Figure 3.26).



Figure 3.26

### Grounds for deeming complaint inadmissible (per cent)



As a result of the constant increase in workload, the timeframe for deciding on a complaint increased to 314 days, excluding complaints that were settled by the parties or withdrawn by the complainant, remaining well above the time allotted by the ABF Provisions (105 days plus an additional 30 days to notify the parties of the decision).

Pursuant to directive 2013/11/EU on alternative dispute resolution – which sets a timeframe of 90 calendar days, starting on the date on which the ADR entity receives the complete complaint file and ending on the date on which the outcome of the ADR procedure is made available – the average duration of the proceedings was 264 days.

## CIVIL MEDIATION

In 2016, the number of proceedings before mediators involving banking and financial matters decreased by 17 per cent overall (Figure A).

The decrease was mainly determined by a reduction of the proceedings involving bank contracts, although financial ones also decreased (-18 and -5 per cent respectively).

One of the parties failed to participate in the mediation in 54 per cent of the cases concerning bank contracts and 60 per cent of those regarding financial contracts. The absence of one of the parties makes it impossible to reach an agreement, resulting in a negative outcome for the mediation. In cases in which both parties participated, the mediation resulted in an agreement in 7 per cent of the cases for bank contracts and in 8 per cent of the cases for financial ones.

Figure A

### Civil mediation (annual data)



Source: Based on data from the Ministry of Justice.

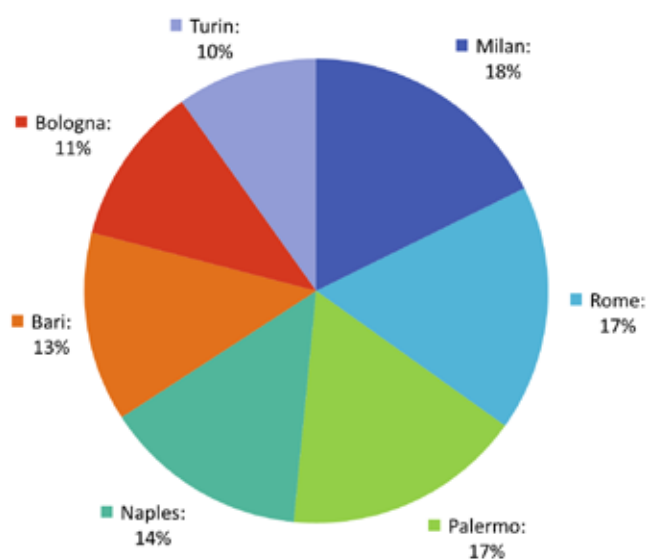
In 2015 the average economic value of a mediation case was €134,000 for mediation cases involving a bank contract and €156,000 for those involving a financial contract.

### Data on the first four months of 2017

In the first four months of 2017 10,028 complaints were submitted to the Ombudsman, an increase of 54 per cent over the year-earlier period (figure 3.27).

Figure 3.27

### Complaints by panel (January-April 2017; per cent)



The increase was principally due to complaints involving a loan secured by a pledge of salary, which rose by 71 per cent; there was a decrease in complaints concerning ATM and debit cards, current account and mortgages (-3, -8 and -5 per cent respectively). The share of consumer complainants is 96 per cent, as in 2016; the share of complainants represented by a professional decreased to 53 per cent, against 61 per cent in 2016.