



BANCA D'ITALIA
EUROSISTEMA



Arbitro Bancario Finanziario
Risoluzione Stragiudiziale Controversie

The Banking and Financial Ombudsman Annual Report



Abridged Version



BANCA D'ITALIA
EUROSISTEMA

The Banking and Financial Ombudsman Annual Report

Abridged Version

2017

Number 8 - June 2018

© Banca d'Italia, 2018

Address

Via Nazionale, 91
00184 Roma - Italia

Telephone

+39 0647921

Website

<http://www.bancaditalia.it>

ISSN 2281-4116 (stampa)

ISSN 2281-4809 (online)

All rights reserved.
Reproduction for scholarly
and non-commercial use permitted,
on condition that the source is cited.

*Designed and printed by the Printing and Publishing
Division of the Bank of Italy*

Printed in June 2018

CONTENTS

2017 DATA	5
FOREWORD	7
1. The main characteristics of the ABF	11
About the ABF	11
Against whom the customers may file a complaint	11
When it is possible to file a complaint with the ABF	12
When it is not possible to file a complaint with the ABF	12
Who handles the complaints	13
What to do before filing a complaint	15
How much it costs to file a complaint	16
How to file a complaint with the ABF	16
Time frame of the procedure	17
Initiatives to raise awareness of the ABF's activities	17
The Bank of Italy and its role of National Competent Authority	19
The ABF and the goals of the Supervisory Authority	19
2. Data on complaints and operations	21
DEMAND	22
Aggregate data	22
Matters under dispute	25
Types of financial intermediaries	29
SUPPLY	32
Outcomes	32
DATA ON THE FIRST FOUR MONTHS OF 2018	38
3. The international landscape	43
Out-of-court settlement of cross-border disputes in Europe: Fin-Net	43
The overall results of the survey carried out within Fin-Net	44

LIST OF BOXES

SECTION 1

The current composition of the panels	14
The technical secretariats	15
The website and social media	17
To know more about the ABF	18

SECTION 2

Letters of complaint to intermediaries	31
Awards to complainants	32
The ABF and the civil courts	36
Civil mediation	37
Level of customer satisfaction	39

Data for 2017

30,644

(+42 per cent)



Complaints received

of which

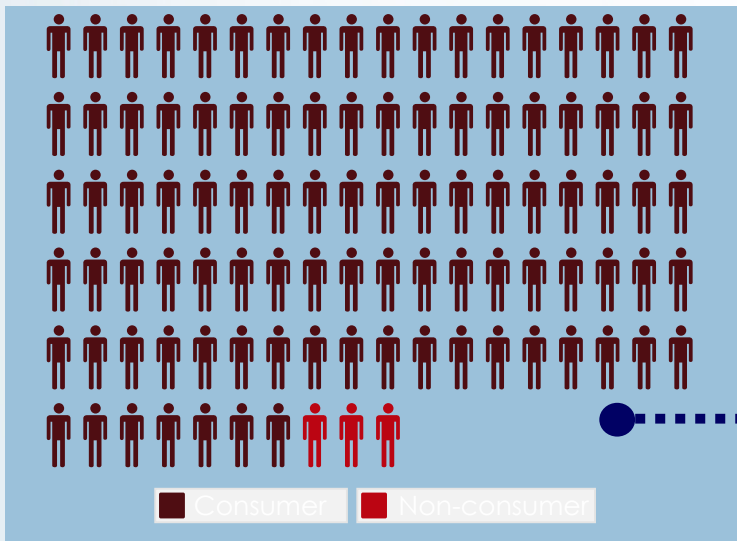
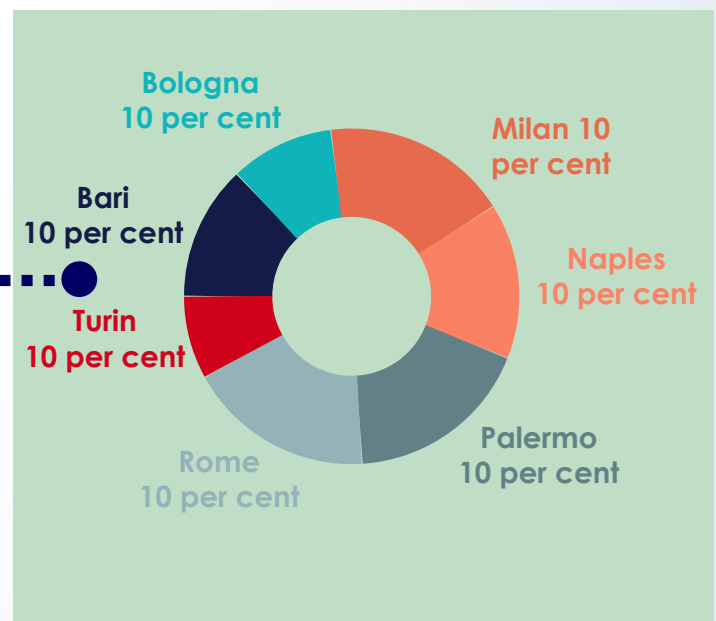
73 per cent

regarding loans secured
by pledge of 1/5 of salary

390

panel
meetings

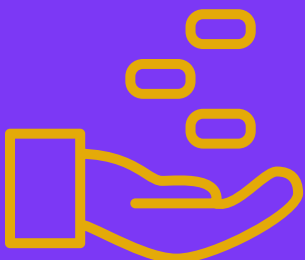
Complaints by panel



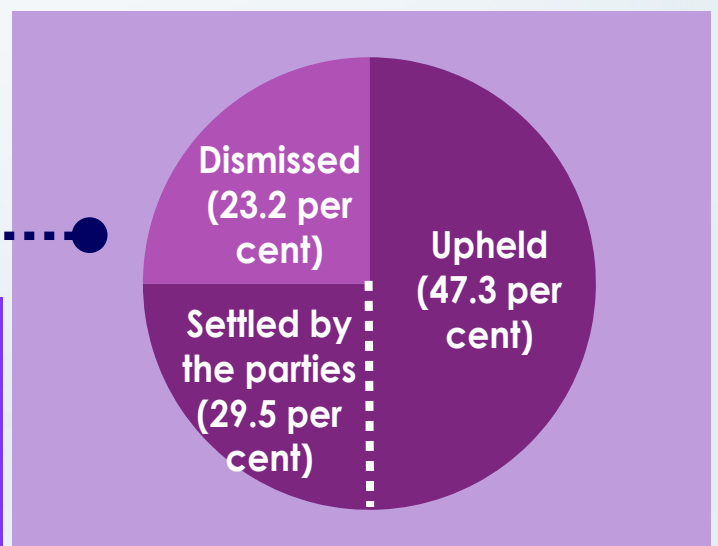
Complaints by type of complainant

Resolved complaints

€19 million



awarded
to customers





Compliance

Rules

Standards

Policies

Regulations

Law

FOREWORD

This Report gives an account for 2017 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 the first months of 2017, the new panels in Bari, Bologna, Palermo and Turin became fully operational, alongside the already existing ones in Milan, Naples and Rome.

The number of complaints rose further, to more than 30,000, an increase of 42% compared with 2016.

In the first three months of 2018 almost 8,000 complaints were filed, a similar number to that of the same period in 2017.

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.

Thanks also to the increase in the number of panels, the decisions of the ABF almost doubled as compared with those of the previous year: in 2017 nearly 24,000 complaints were resolved. In 77 per cent of the cases the outcomes were substantially in favour of the complainant: 47 per cent of complaints resulted in total or partial acceptance of the complainant's request and 30 per cent of complaints were settled by the parties prior to the ABF's decision. Awards to customers totalled more than €19 million.

Without prejudice to the full decision-making autonomy of the panels, the Bank of Italy continues to provide its full support to the system's activities, thanks above all to the technical secretariats, established at the Bank of Italy's branches in the cities where the panels operate, whose structure was strengthened.

This year a web portal was created to facilitate access to the system. Through it, complaints may be filed and managed entirely online.

* * *

The Report is divided into two sections.

Section 1 (*An Overview of the ABF*), provides a summary of the ABF's main characteristics and functions (Chapter 1) as well as statistical data on the complaints received by the ABF, the decisions it issued and the activity of the panels (Chapter 2). Furthermore, this section outlines the main issues brought to the ABF's attention in 2017 and issues concerning the limits to the ABF's jurisdiction. In addition, it provides a summary of the decisions of the Coordinating Panel and preliminary information on the decisions published in 2018 (respectively in Chapters 1, 3, 5, 6).

Section 2 (*A Comparison With The Judicial Authority And The International Landscape*) compares the decisions of the ABF to the case law of the civil courts concerning subjects within the jurisdiction of the Banking and Financial Ombudsman (Chapter 7). It also provides an overview of Fin-Net and a brief summary of the survey carried out by the Bank of Italy among its members (Chapter 8).

The Report includes an Appendix containing data and methodological notes, available only in the online version.

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

With this Report, the Bank of Italy fulfils its obligations under [Credit Committee Resolution 275/2008](#) and under 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 Chapters 1 and 2 of Section 1 and Chapter 3 of Section 2.

SECTION 1

**An overview of the Banking
and Financial Ombudsman**

What

When

Who

How

Why

Where

1. THE MAIN CHARACTERISTICS OF THE ABF



About the ABF

The Banking and Financial Ombudsman (ABF) is a decision-making alternative dispute resolution scheme aimed at solving controversies between customers, on the one side, and banks and financial intermediaries, on the other. The ABF was established in 2009 by the Bank of Italy to introduce an alternative mechanism that is faster and less expensive than civil litigation.

- The ABF is autonomous and impartial with respect of the Bank of Italy.
- Recourse to the ABF is simple and does not require any legal or professional assistance.
- The ABF decides who is right and who is wrong: its decisions, although not legally binding, are complied with in almost all cases; any non-compliance is made public on the ABF's website.

The Ombudsman's decisions are not legal judgments and do not rule out the possibility of submitting the dispute to the civil courts when they fail to satisfy the parties. Recourse to the ABF satisfies the pre-condition for filing a judicial proceeding pursuant to Legislative Decree 28/2010, as amended: those who want to commence a civil proceeding may seek recourse to the ABF as an alternative to mediation.

The decision is made according to the applicable law, on the basis of the request of the complainant and the documents provided by the parties. Any other evidence, such as expert reports or testimony, is not allowed.

The Ombudsman's decisions 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.



Against whom the customers may file a complaint

Customers may file a complaint against:

- banks;
- financial intermediaries listed in the register referred to in Article 106 of the Consolidated Law on Banking (Legislative Decree 385/1993);

- collective loan guarantee consortia referred to in Article 112 of Legislative Decree 385/1993;
- payment institutions;
- electronic money institutions;
- the Post Office as regards its BancoPosta activity.

If the financial-intermediary does not fall into one of the above mentioned categories, the ABF cannot review the complaint. In order to verify whether the financial-intermediary falls under the ABF's jurisdiction, it is possible to access **the registers and lists** kept by the Bank of Italy on its website.

The ABF retains its jurisdiction if the financial intermediary is removed from the registers and lists after the complaint is filed.

It is also possible to file a complaint against foreign banks and intermediaries that operate in Italy under the freedom to provide services and do not adhere to another out-of-court dispute settlement system which is a member of Fin-Net (see Chapter 8, 'International Landscape').



When it is possible to file a complaint with the ABF

The Ombudsman rules on disputes concerning banking and financial transactions and services (for instance, current accounts, mortgages, personal loans), including payment services, except those relating to transactions or conduct prior to 1 January 2009.

The ABF can decide disputes relating to:

- the request for an amount of money not exceeding € 100,000;
- the ascertainment of rights, obligations and prerogatives (for instance the right to receive transparency documents or the right to extinguish a mortgage after the repayment of the debt), irrespective of the amount involved.

The ABF website describes in detail the necessary steps to verify whether the controversy may be submitted to the Ombudsman.



When it is not possible to file a complaint with the ABF

The ABF cannot decide disputes relating to:

- services or activities for investment purposes (for instance, the trading or placement of securities, investment advice, asset management. Investment services fall within the jurisdiction of the **Financial Disputes Arbitrator**);
- goods and services that are not banking and financial in nature;

- transactions or conduct prior to 1 January 2009;
- issues already submitted to a judicial authority or under examination by an arbitrator, conciliator or mediator.

Recourse to the ABF is, however, possible if the arbitration, conciliation or mediation procedure failed or if the financial intermediary commenced it and the customer did not participate.



Who handles the complaints

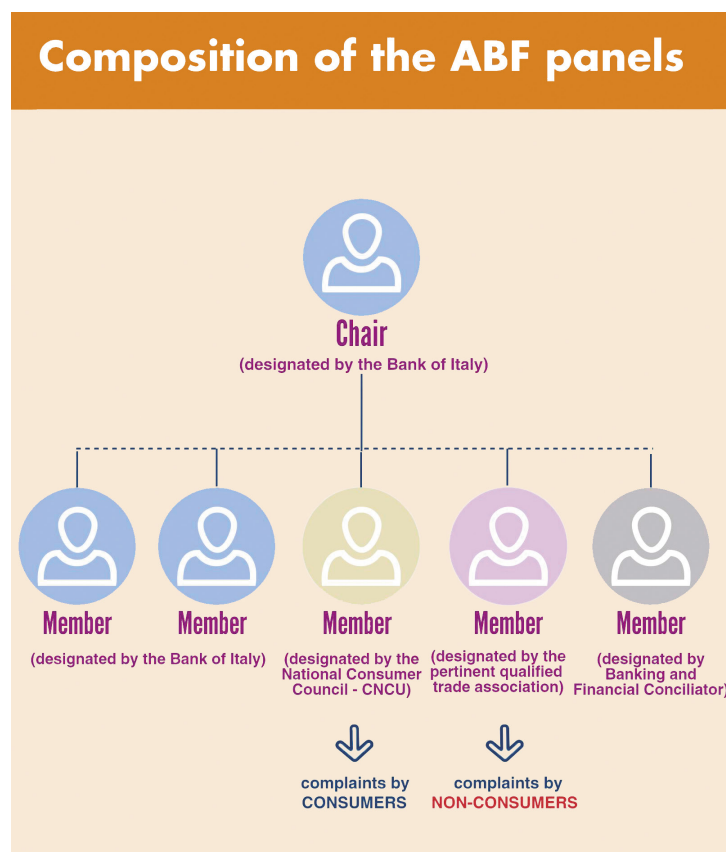
The disputes received by the Ombudsman are submitted to a territorial panel which serves as the decision-making body. Since the end of 2016, the ABF has seven territorial panels (Milan, Turin, Bologna, Rome, Naples, Bari and Palermo). Jurisdiction is based on the domicile of the complainant.



Each territorial panel is composed of five members, appointed by the Bank of Italy:

- the Chair and two members are selected by the Bank of Italy;
- one is selected by associations representing financial intermediaries;
- one is selected by associations representing customers (consumers and non-consumers).

With regard to consumers, the members are designated by the National Consumer Council; as for professionals/business owners, they are designated by Confindustria acting in agreement with Confcommercio, Confartigianato and Confagricoltura; as regards 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.

To be appointed, specific requirements relating to experience, professionalism, integrity and independence are required; furthermore, all panel members must abide by a code of conduct.

THE CURRENT COMPOSITION OF THE PANELS

The panels consist of 131 members (7 Chairs, 34 regular members and 90 alternates). Of these, 58 were designated by the Bank of Italy, 33 by the Banking and Financial Conciliator, 26 by the National Consumer Council and 14 by Confindustria. The average age of the members is 52 (the Bari panel has the lowest average age). Over 25 per cent of the members are women; nearly 87 per cent are experts in legal matters, while the others are experts in economic or technical subjects. Almost 83 per cent of the members are in their first term of office.

Since 2012 the territorial panels have been flanked by a Coordinating Panel, whose purpose is to ensure greater consistency among the single panels' decisions; it consists of three of the seven Chairs and of two members from the territorial panels (one designated by the Banking and Financial Conciliator and the other by the associations representing customers), all selected annually by lot.

In cases where a territorial panel deems the issue in question to be of particular significance or finds that the dispute under its review has given or could give rise to inconsistent decisions, it refers the case to the Coordinating Panel. In 2018, following the selection by lot, the members of the Coordinating Panel consist of the Chair of the Rome panel (serving as Chair), and the Chairs of the Turin and Palermo panels. For more information concerning the composition of the territorial panels and the Coordinating panel, see the '[About the ABF](#)' section of the ABF website.

THE TECHNICAL SECRETARIATS

Each panel is assisted by a **Technical Secretariat** that operates out of the Bank of Italy branch associated with the territorial jurisdiction of the panel. Without prejudice to the clear distinction of roles and responsibilities, the technical secretariats carry out fundamental tasks which assist in the functioning of the panels.

Currently, the technical secretariat's workforce consists of 134 staff members, approximately half of whom are women, and the average age is 41. Last year, 80 recent law graduates completed six-month internships at the technical secretariats and at the central coordinating unit to add work experience within the ABF system to their CVs.

Other branches of the Bank of Italy also contribute to the technical secretariats' activities in the form of on- or off-site cooperation (for instance, through delocalized working).

The technical secretariat's auxiliary functions are entirely supported by computerized procedures which, in 2017, were improved in order to allow the management of submitted complaints through the web portal.

At the end of 2016, the increase in the number of panels was accompanied by the establishment of the Panel Conference which, in addition to the Coordinating Panel, serves as another forum for discussion. The Panel Conference consists of two members from each panel (one of whom is the Chair) and deals with substantive and procedural issues which are of particular interest to the ABF or to the system as a whole.



What to do before filing a complaint

Filing a complaint with the Ombudsman is possible only after having submitted a written claim to the financial intermediary on the same matter. If the financial intermediary

does not respond within 30 days from the date of the submission or if the response is unsatisfactory, the customer may file a complaint with the ABF within 12 months from the date of the submission of the claim.

It is appropriate to collect all the relevant documents supporting the complaint, since the ABF decides only upon the documentation received.



How much it costs to file a complaint

To file a complaint with the ABF, the customer must pay a fee of €20 to cover the costs of the procedure. If the ABF upholds (in whole or in part) the complaint, the financial intermediary must reimburse that amount to the customer and pay a fee of €200 to the Bank of Italy.



How to file a complaint with the ABF

Since 5 February 2018, the web portal has been operational, enabling customers to file and manage complaints entirely on their own.

In order to access the web portal, customers must register online through the reserved area of the ABF's [website](#). The web portal allows customers to submit complaints and their supporting documents and to check their status.

Created pursuant to Directive 2013/11/EU on alternative dispute resolution (ADR), the web portal fulfils the need of enhancing the ABF's efficiency and improving the capability of responding to claimants. In light of these reasons, the submission of hard copy complaints, after a transitional period of 6 months, has been limited to specific cases (see the section of the website '[How to file a complaint](#)'), in accordance with the ADR Directive (and with Legislative Decree 130/2015 transposing it), as well as with the guidelines adopted by the Steering and Coordination Committee established at the Ministry of Economic Development, consisting of representatives from all the National Competent Authorities.¹

The intermediaries and their associations will also have access to the web portal during the second phase.

For further information concerning the submission of complaints online, see the *Guide On How To Use The Web Portal*, available on the ABF's website (only in Italian).

¹ On the role of the Steering and Coordination Committee established at the Ministry of Economic Development, see [The Banking and Financial Ombudsman Annual Report for 2015](#).



Time frame of the procedure

After having received the complaint, the financial intermediary has 45 days to submit its defence brief (for more information, see the guide [The ABF in Simple Words](#), only in Italian).

The current rules 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 (ABF Provisions) provide that the panel shall decide the case within 60 days; in certain circumstances this time limit may be extended for an additional 60 days. The panel then has 30 days to notify the parties of its reasoned decision.

The procedure and the relevant deadlines will be aligned with the ADR Directive and its implementing national law (Legislative Decree 130/2015), also in accordance with the guidelines issued by the Steering and Coordination Committee established at the Ministry of Economic Development.

Procedures may last a maximum of 270 days, even taking into account the complexity of the case (90 days to complete the file and 90 to conclude the procedure, with a possible extension of an additional 90 days in case of complex disputes).

In 2017, the overall average duration of an ABF case was 261 days (calculated from the date of filing the complaint to the notification of the decision), net of any period of suspension provided for by the Provisions; including the suspension periods the duration was 294 days.



Initiatives to raise awareness of the ABF's activities

In 2017 the Bank of Italy increased and diversified the information channels and the means to spread awareness on the ABF system.

The ABF's activities were subject to a wide and structured communication campaign.

THE WEBSITE AND SOCIAL MEDIA

The website. – In 2017 the number of visits to the ABF website increased (22 per cent more than in 2016); as in previous years the website's most frequently visited page was the archive of the panels' decisions (a total of 38,000 published decisions). Also, the number of document downloads rose (21 per cent more than in 2016).

Along with the launch of the web portal, a reserved area was created within the website for the online submission of complaints. In addition, the website itself was updated and a dedicated section on Fin-Net was introduced.

Youtube. – With the launch of the web portal, the scope of the awareness campaign on the role of the ABF was widened to include a **video presentation**, a **commercial** and a **video tutorial** which describe how to file a complaint through the web portal and which outline some of its other features. The videos are available on the Bank of Italy's official channel and on the ABF website. In the first four months of the web portal's operability (from 5 February to 5 June) the video presentation got 4,229 views, the commercial 1,420 and the video tutorial 4,653.

Twitter. – On the twitter account @bancaditalia, 30 tweets about the Ombudsman reached almost 30,000 people, with an average rate of engagement of 2.6 per cent.

Linkedin. – In 2017, on the Bank of Italy's webpage, three posts directly or indirectly dealt with the ABF (including through the promotion of the book *Risparmio alla pari* about the ABF's caselaw, compiled jointly by the Bank of Italy and the newspaper *Corriere della Sera*); they were addressed to more than 110,000 people, with an average rate of engagement of 3.5 per cent.

Storify. – The Bank of Italy made multimedia content concerning the ABF available to users through Storify, a tool for the collection, sorting and sharing of contents already published online (*content curation*).

Also in 2017, several conferences were held about the ABF. The presentation of the Annual Report for 2016 at University Roma Tre, as in the previous year, was an opportunity to organize discussions on the ABF's activities with institutional and private operators. Other conferences were held in other cities where the panels are located.

Last year some tools were made available to customers in order to boost the knowledge and awareness of the ABF system and the new ways to file complaints.

TO KNOW MORE ABOUT THE ABF

Practical Guide. – The *Practical Guide* is the main information tool that financial intermediaries are required to make available to their customers; it was completely revised in its contents and graphics. Currently two guides are available: *A Simple Guide To The ABF* (only in Italian), which illustrates the functioning of the system and provides customers with useful information on how to file a complaint, and the *Guide On How To Use The Web Portal* (only in Italian), which describes in detail how the web portal works and how to submit a complaint.

The toll-free number. – The toll-free number 800 19 69 69, managed by the Bank of Italy, provides information on the ABF and on how to file a complaint. Users receive general information on the ABF and may ask a query by leaving a voice message; the Bank of Italy's staff will try to contact them within a few hours.

In 2017 the queries at the toll-free number increased by about 38 per cent compared with the previous year and represented around a third of the total number of calls. They dealt predominantly with the procedural aspects of filing complaints (62 per cent) and the matters falling within the competence of the ABF (22 per cent).

Assistance in using the web portal. – Since the launch of the web portal, assistance concerning the use of the new portal has been made available to users. Users may submit a query online and the Bank of Italy’s staff will contact them within a few hours.

As of February 2018 the ABF’s website is also available in English.²



The Bank of Italy and the role of National Competent Authority

As national competent authority, pursuant to Legislative Decree 130/2015, the Bank of Italy has verified that the ABF meets the requirements of stability, efficiency and impartiality and the obligation to ensure low-cost access for consumers.

In the first months of 2018 the Bank of Italy provided the Ministry of Economic Development with its contribution, as concerns the activity of the ABF, to the report on the development and functioning of all the ADR entities established in Italy, pursuant to Article 141-*decies*, paragraph 8 of the Italian Consumer Code.



The ABF and the goals of the Supervisory Authority

The outcomes of the Ombudsman’s proceedings significantly contribute to the supervision of the banking and financial system. According to the ABF Provisions, the decisions become part of the broader pool of information at the Bank’s disposal for its regulatory and control functions.

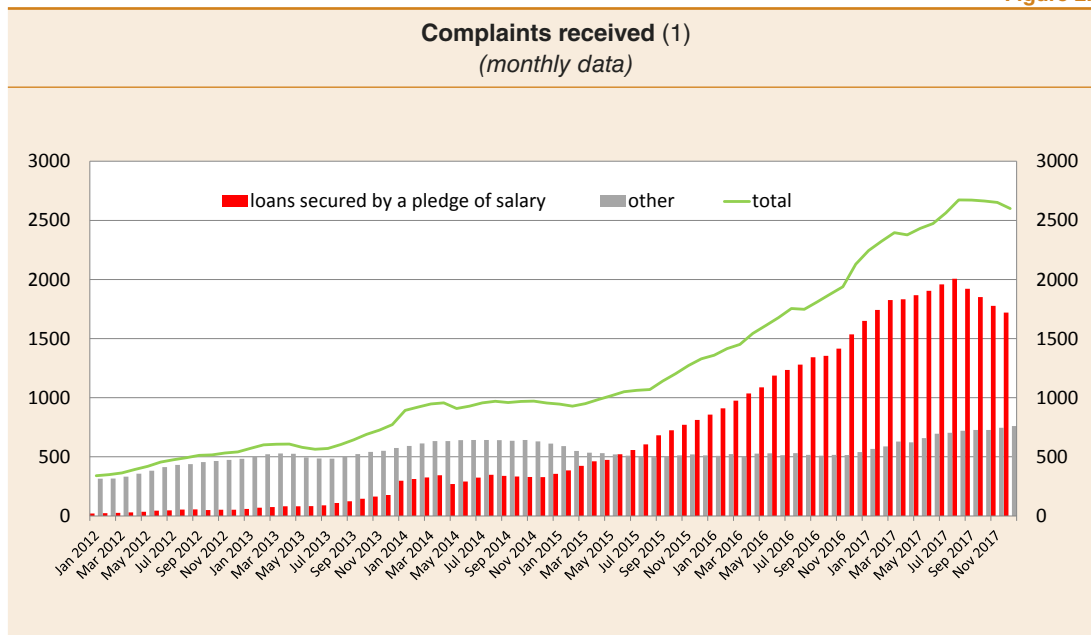
² Except for the sections ‘News’, ‘Panel Decisions’ and ‘Non-compliant intermediaries’.



2. DATA ON COMPLAINTS AND OPERATIONS

The growth in the number of complaints received by the Banking and Financial Ombudsman accelerated in 2017. The complaints increased by 42 per cent and the monthly average rose from 1,804 to 2,554 (Figure 2.1).

Figure 2.1



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

This trend is due to a large increase in complaints regarding loans secured by a pledge of one-fifth of salary or pension, and in those related to consumer credit (overall 52 per cent); excluding both these matters, the number of complaints increased by 15 per cent.

The majority of complaints were filed by consumers (97 per cent).

In 2017, the panels held 390 meetings (220 in 2016); the Milan, Rome and Naples panels decided an average of 75 cases per meeting; the newly established panels decided an average of 43.

The number of decisions nearly doubled compared with 2016 (from 13,770 to 23,968). In 77 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).

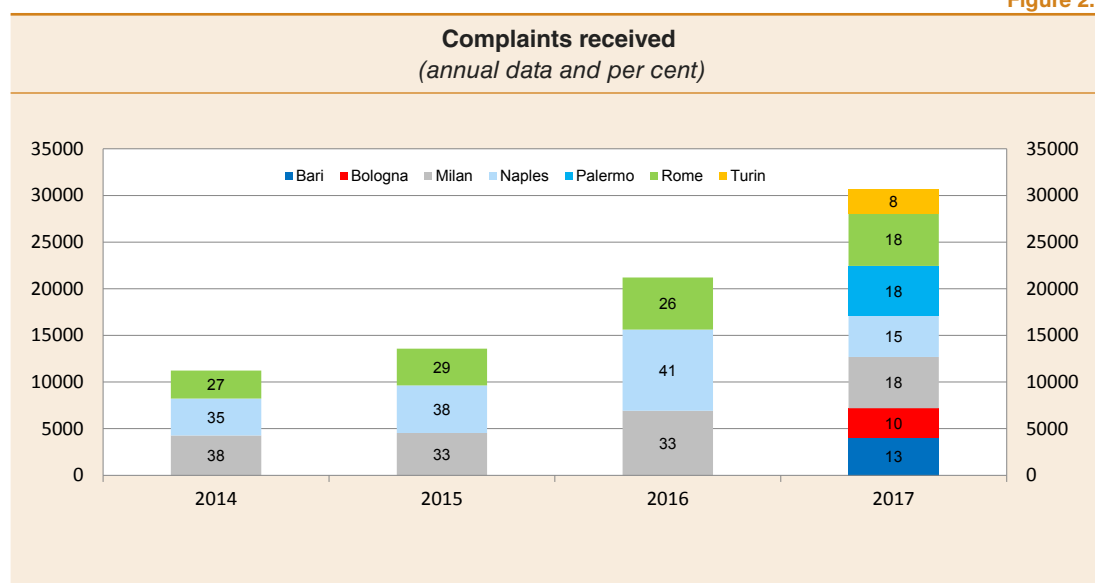
The sub-sections that follow provide data on the complaints submitted to the ABF (amounts and characteristics) as well as the outcomes and activities of the panels.

DEMAND

Aggregate data

In 2017 the ABF received 30,644 complaints. The opening of the Turin, Bologna, Bari and Palermo panels led to a remapping of the territorial jurisdiction of each panel (the complainants' domicile determines which panel has jurisdiction). The number of complaints received by the Rome panel remained broadly stable; by contrast, those submitted to the Milan and Naples panels decreased (-20 and -49 per cent respectively). The Rome, Milan and Palermo panels received the highest number of complaints (Figure 2.2).

Figure 2.2



The regions where the highest number of complaints in proportion to resident population were submitted were Calabria, Campania and Sicily. In absolute value, the regions with the highest number of claims were Sicily, Campania, Lazio and Lombardy (Figures 2.3.a and 2.3.b).

The increase in complaints was mainly due to the growth in consumer complaints (up by 43 per cent); instead, those submitted by non-consumers, just over 1,000 in 2017, rose by 8 per cent. Therefore the share of consumer complaints grew to 97 per cent of the total (Figure 2.4).

Figure 2.3

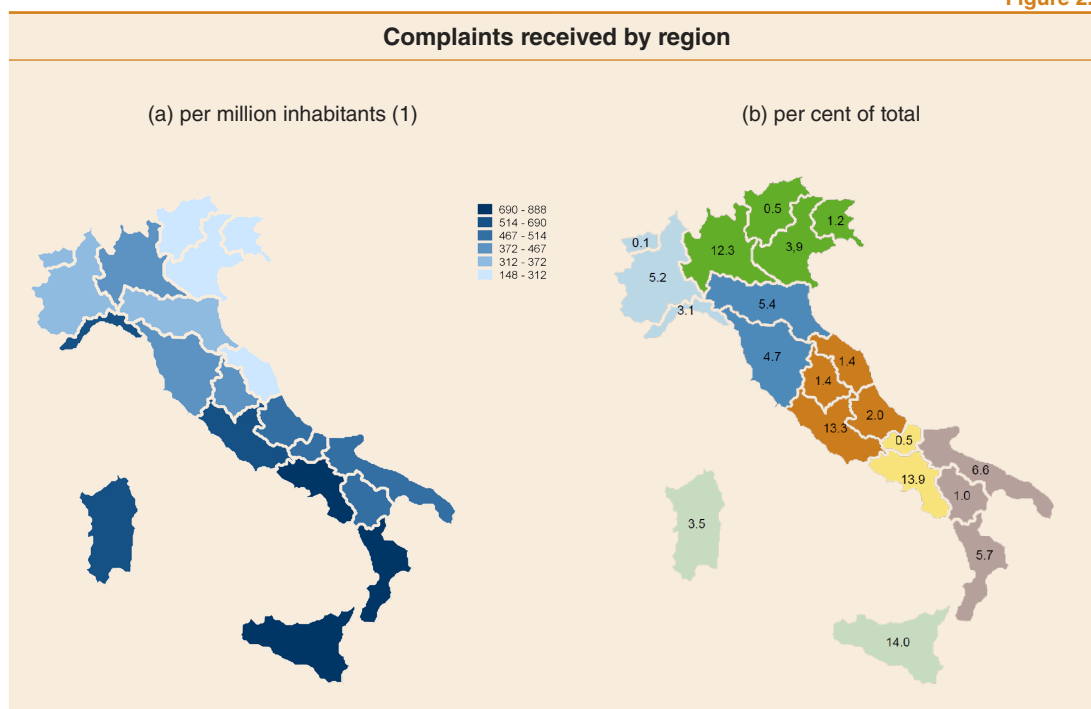
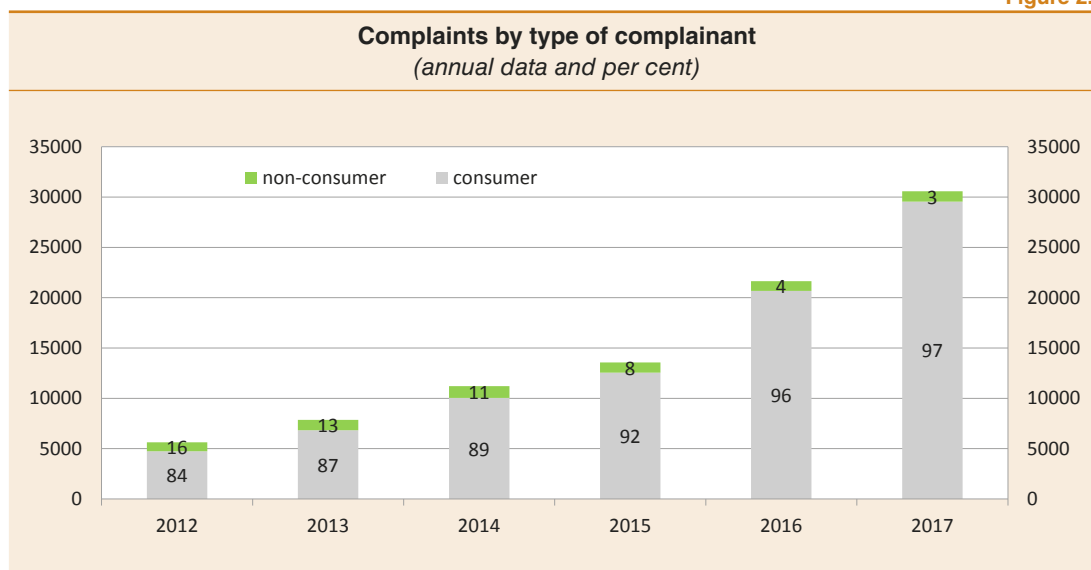
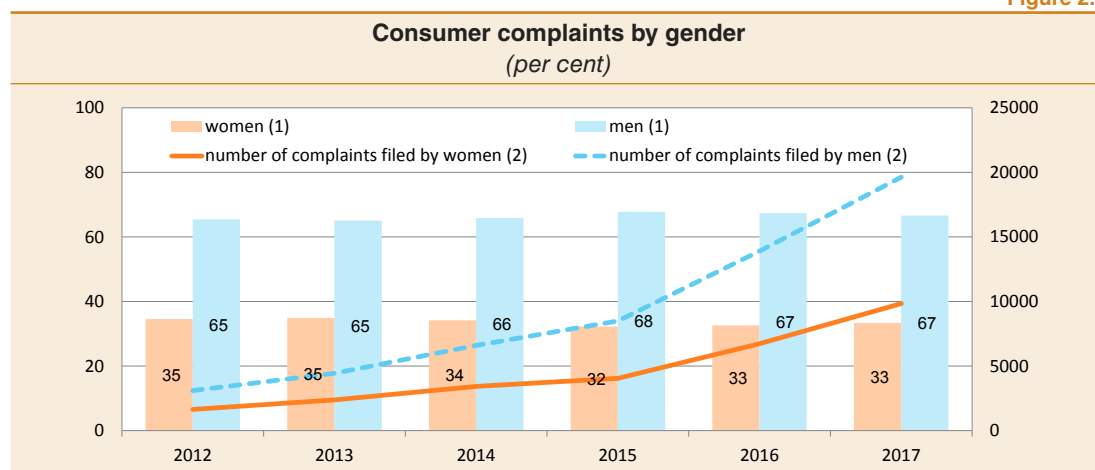


Figure 2.4



Among consumers, there was an increase in the number of complaints filed both by men and women (41 and 46 per cent respectively; Figure 2.5). Last year, men accounted for 67 per cent of the total, as they did in 2016; the distribution differed by region (male complainants accounted for less than 60 per cent in Tuscany and Emilia-Romagna and more than 75 per cent in Puglia, Sicily, Campania and Basilicata).

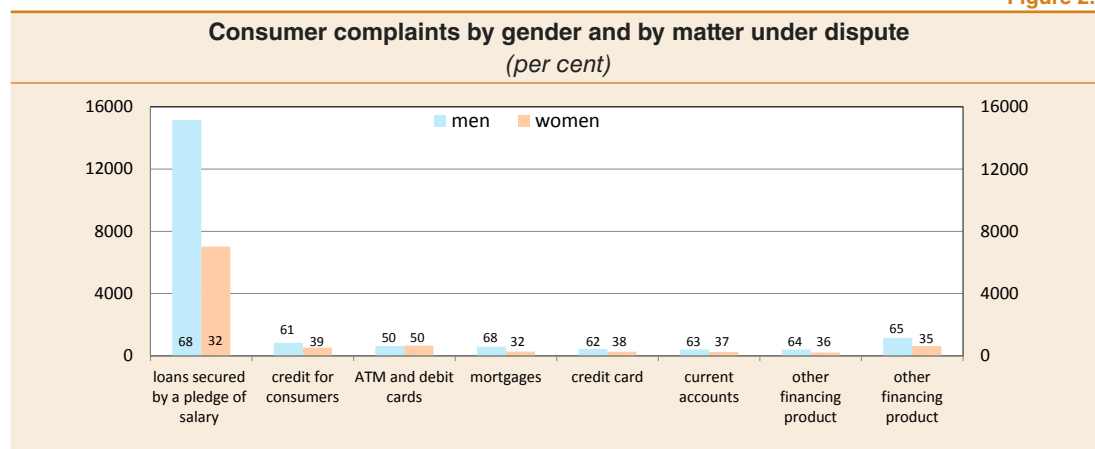
Figure 2.5



(1) Per cent. – (2) Right-hand scale.

Approximately two-thirds of complaints concerning loans secured by a pledge of one-fifth of salary and two-thirds of those regarding mortgages were submitted by men (Figure 2.6). ATM and debit cards were the only matter under dispute for which female complainants equalled their male counterparts. Controversies relating to loans secured by a pledge of one-fifth of salary accounted for 71 per cent of those lodged by women and 77 per cent of those filed by men. Complaints relating to consumer credit accounted for 5 and 4 per cent respectively; those involving ATM and debit cards 7 and 3 per cent respectively.

Figure 2.6



Consumer complainants had an average age of 55 (54 in 2016). For complaints involving savings deposits, the average age was higher (61). For those concerning mortgages and credit cards complainants were generally younger (48).

In 2017 a higher number of customers (89 per cent) than in 2016 (82 per cent) submitted their complaints via certified e-mail. For complaints filed with the assistance of a professional, the share reached 95 per cent, while those filed directly by the consumer fell to 31 per cent. The share of consumer complaints submitted via certified e-mail varied greatly by region, in particular with regard to the complaints filed directly by complainants (Figure 2.7).

Figure 2.7

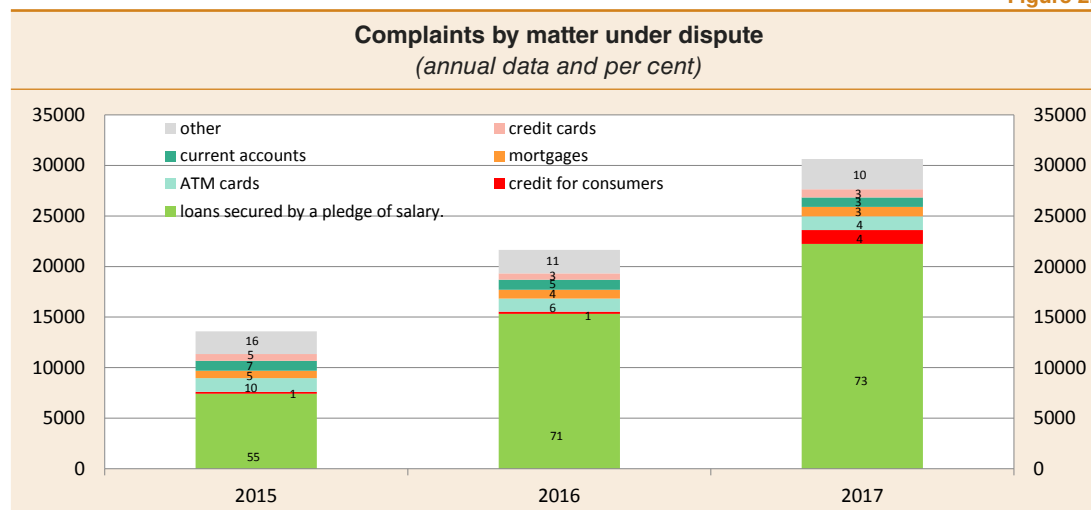
Complaints submitted via certified e-mail, with and without professional assistance, by region (per cent)



Matters under dispute

In 2017, complaints continued to address a variety of matters, with variations in both the volume and the issues involved. Disputes concerning loans secured by a pledge of one-fifth of borrower's salary remained the most prevalent issue, accounting for 73 per cent of all complaints (Figure 2.8).

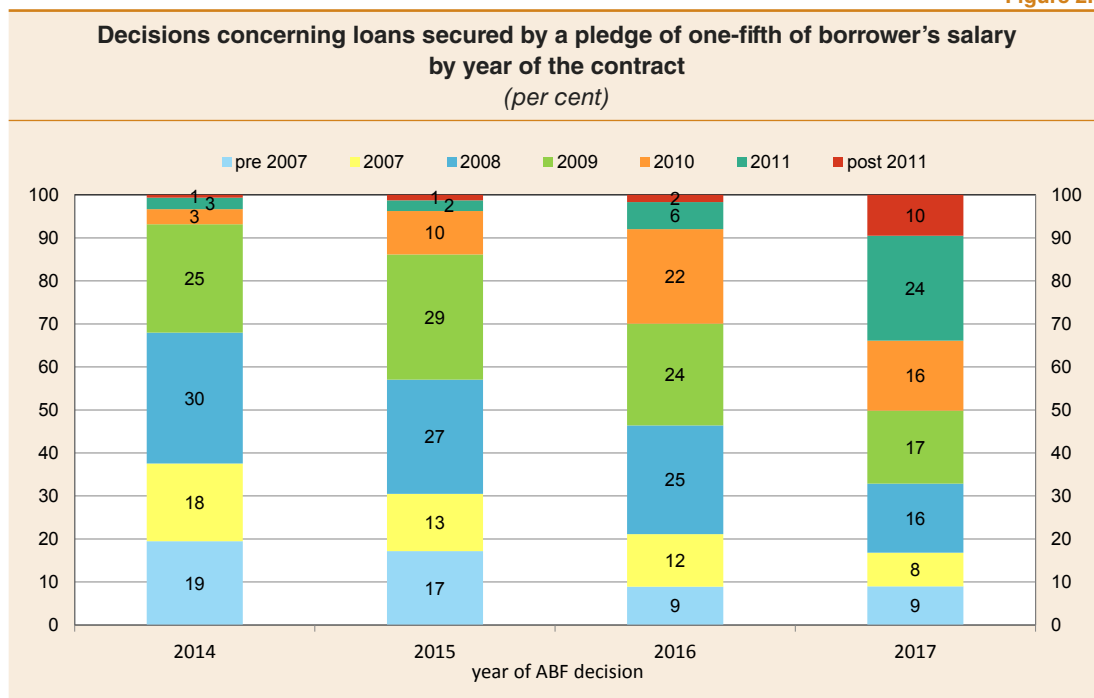
Figure 2.8



Complaints concerning loans secured by a pledge of one-fifth of borrower's salary continue to mainly involve contracts signed prior to the Bank of Italy's 2009 and 2011 supervisory communications to intermediaries (Figure 2.9); however, the share of those relating to contracts signed after 2011 increased by 8 per cent, reaching 10 per cent of the total.¹

¹ Data based on a sample of complaints.

Figure 2.9



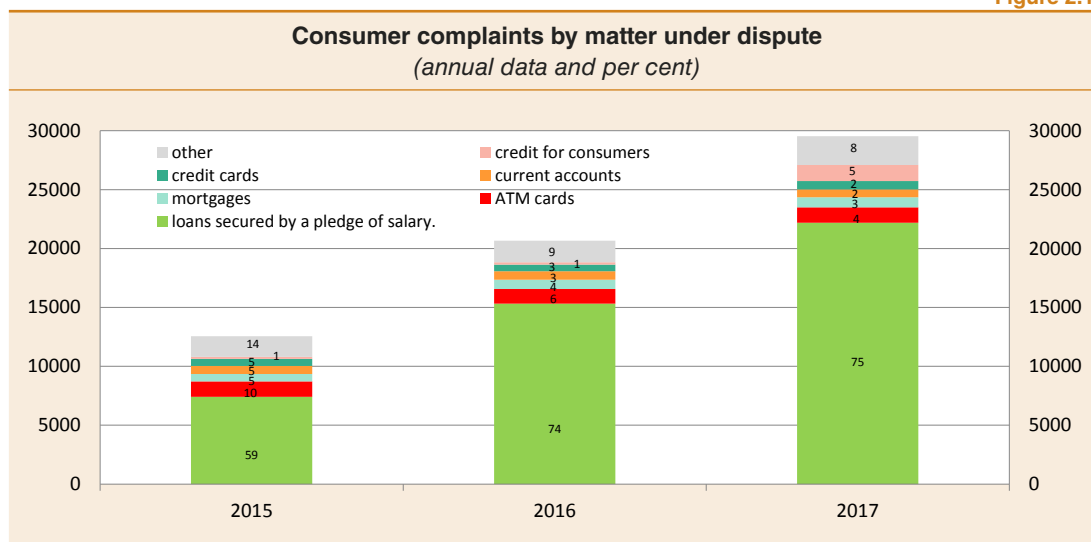
Furthermore the incidence of complaints concerning consumer credit significantly grew while that regarding ATM cards and mortgages diminished (Table 2.1).

Table 2.1

Complaints by matter under dispute: 2016-2017					
MATTER UNDER DISPUTE	2017		2016		Variation % 2017-16
	No.	% of total	No.	% of total	
Loan secured by a pledge of salary	22,238	73	15,324	71	45
Consumer credit	1,368	4	208	1	558
ATM cards	1,355	4	1,294	6	5
Mortgages	947	3	872	4	9
Current accounts	933	3	999	5	-7
Credit cards	808	3	625	3	29
Other financing	674	2	624	3	8
Savings deposits	412	1	335	2	23
Credit reporting agencies	339	1	306	1	11
Central Credit Register	299	1	204	1	47

The breakdown by matter under dispute varied 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 and of those concerning consumer credit increased, while the percentage of complaints relating to other issues decreased (Figure 2.10).

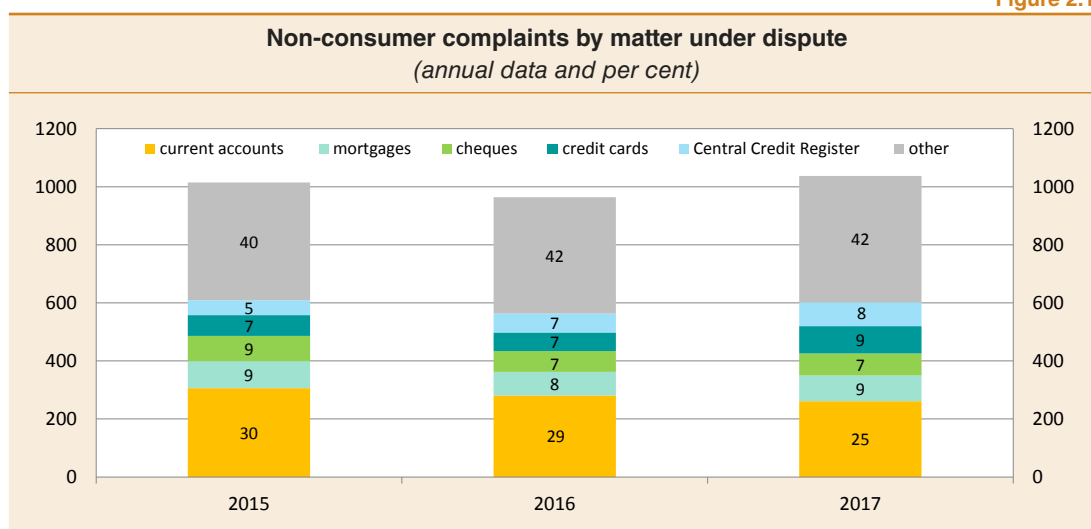
Figure 2.10



The survey *'I reclami, i ricorsi ABF, la mediazione e la giustizia ordinaria'* (Letters of complaint, ABF Complaints, Mediation and the Civil Justice System), shows that 2 out of 1,000 consumer credit agreements resulted in a complaint being filed with the Ombudsman (1.2 in 2016).

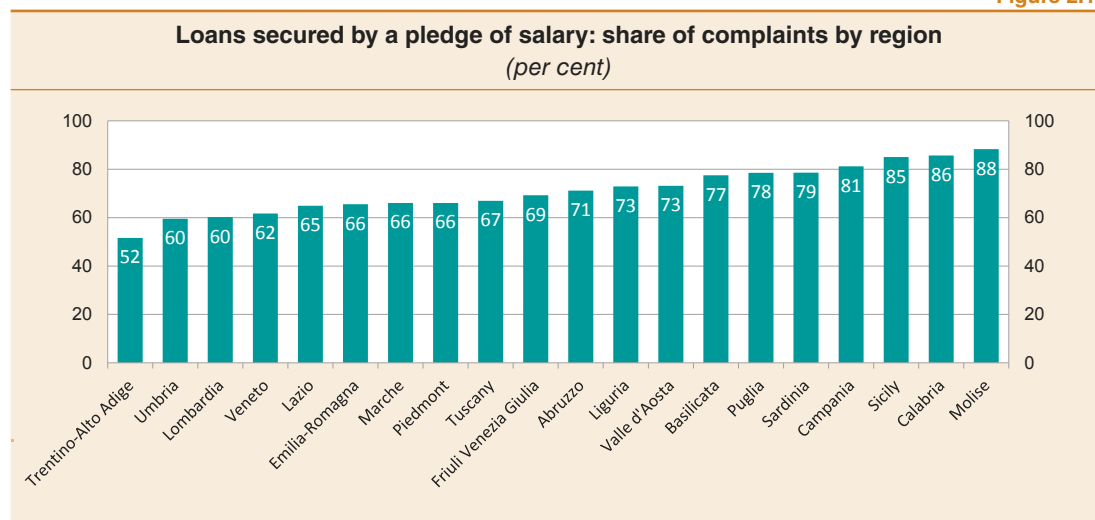
Among non-consumers, a significant share of disputes was related to current accounts (25 per cent of complaints; Figure 2.11), even though the number of these disputes has declined.

Figure 2.11



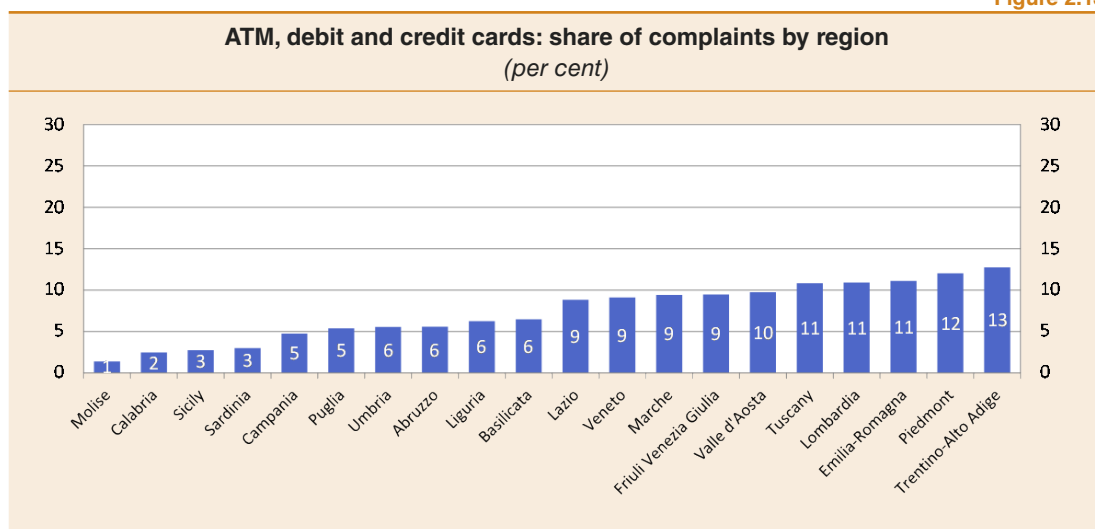
Complaints involving loans secured by a pledge of salary accounted for more than 80 per cent of complaints in Calabria, Campania, Molise and Sicily; they accounted for half of the complaints in Trentino-Alto Adige (Figure 2.12).

Figure 2.12



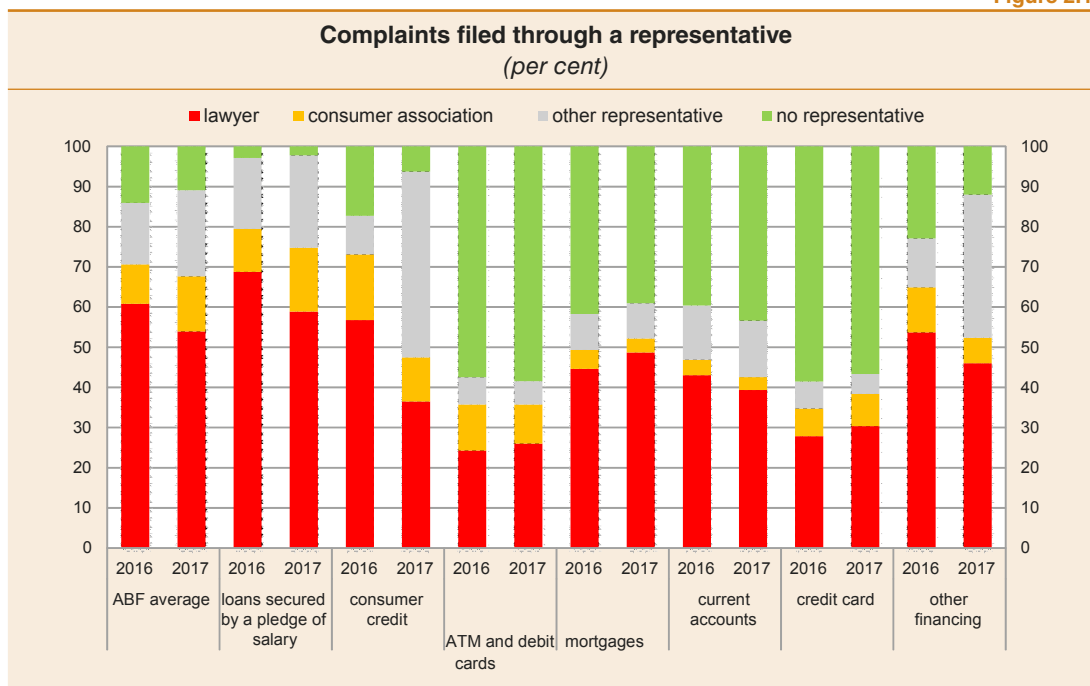
In 2017, the incidence of complaints involving electronic payment systems was higher in the North of Italy, accounting for more than 10 per cent of complaints in Emilia-Romagna, Lombardy, Piedmont and Trentino-Alto Adige and less than 5 per cent in Calabria, Molise, Sardinia and Sicily (Figure 2.13).

Figure 2.13



In 2017, 54 per cent of complaints were filed with the assistance of a lawyer (in 2016, 61 per cent). As to those involving loans secured by a pledge of salary, where professional assistance is more common, the share decreased by 10 per cent, falling to 59 per cent. Complaints filed through consumer associations grew, rising from 10 to 14 per cent of the total (Figure 2.14).

Figure 2.14



Types of financial intermediaries

In 2017, there was an increase mainly in the number of complaints against banks incorporated as limited companies (73 per cent). 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 570 in 2016 to 253 in 2017 (-52 per cent).

The largest share of complaints continued to involve banks incorporated as limited companies (52 per cent; 43 per cent in 2016). The share of complaints against foreign banks and financial intermediaries diminished (also due to the end of the transitional

Figure 2.15

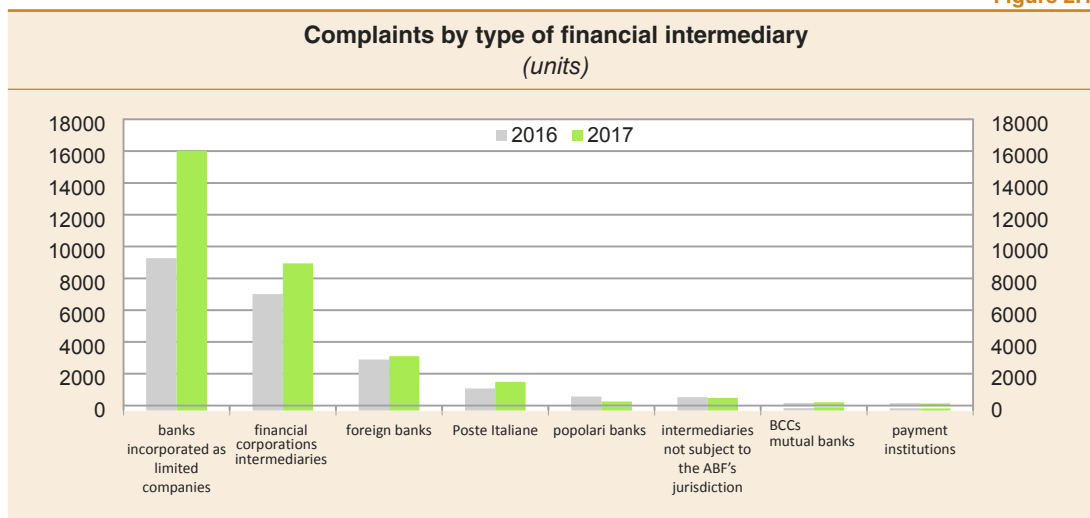
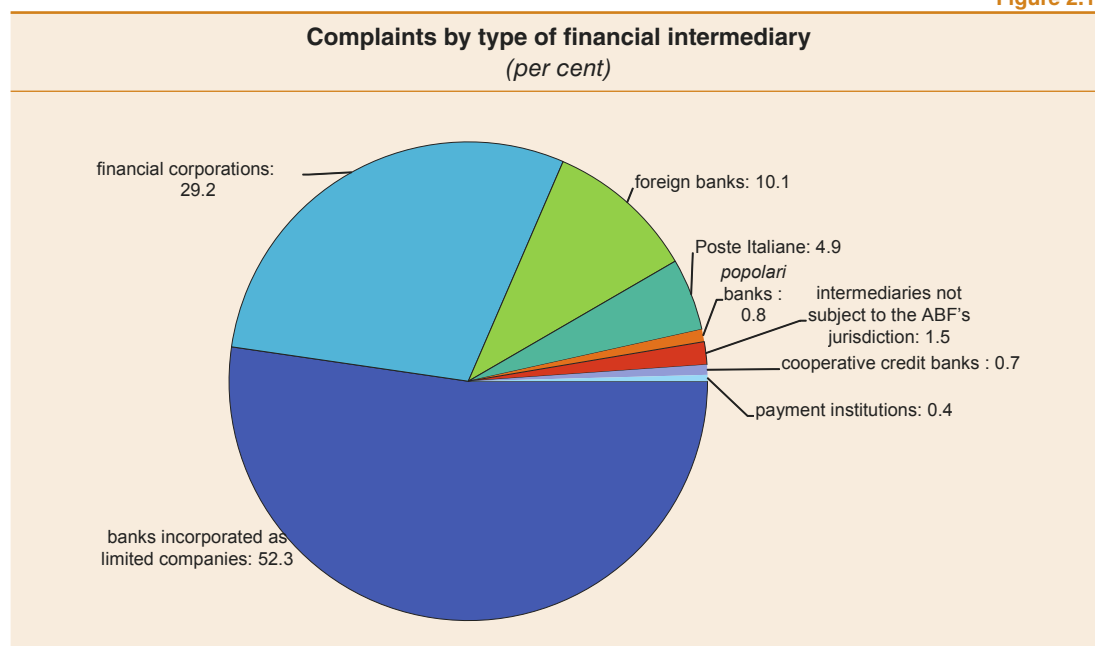


Figure 2.16



period of the general and special lists of financial intermediaries). The share of complaints against Poste Italiane SpA remained stable at 5 per cent (Figures 2.15 and 2.16).

The incidence 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, as well as against *popolari* banks and banks incorporated as limited companies. With regard to cooperative credit banks (BCCs), the most frequent type of complaint concerned mortgages, while almost 86 per cent of complaints against payment institutions involved credit cards (Table 2.2).

Table 2.2

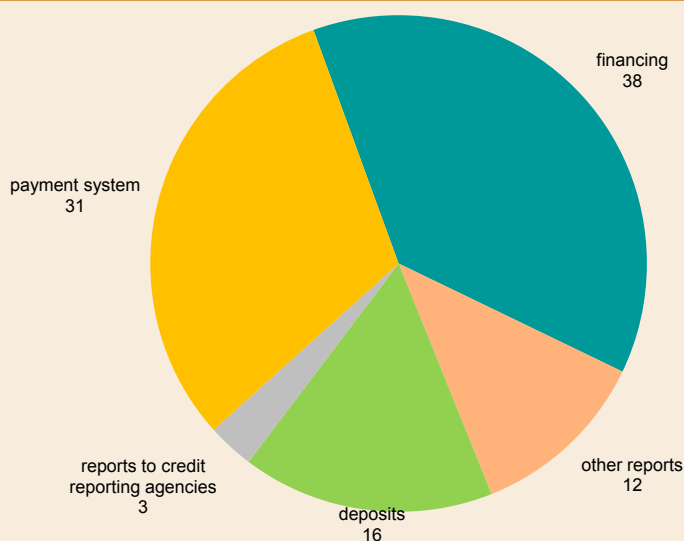
Incidente of matters under dispute by type of financial intermediary								
MATTER UNDER DISPUTE	ABF System	PLC banks	Financial corporations	Foreign banks	Poste Italiane	Popolari banks	BCCs	Payment institutions
Loans secured by pledge of salary	73	71	84	89	0	52	6	2
Consumer credit	4	4	8	1	1	1	0	0
ATM cards	4	4	0	1	39	5	8	9
Mortgages	3	4	0	4	0	6	24	0
Current accounts	3	4	0	1	9	9	18	2
Credit cards	3	2	1	1	13	2	5	86
Other financing	2	2	4	0	0	1	1	1
Savings deposits	1	0	0	0	25	0	2	0
Credit reporting agencies	1	1	1	1	0	2	2	1
Central credit register	1	1	0	0	0	3	2	0
Cheques	1	1	0	0	2	2	11	0
Other	3	4	2	1	9	16	19	1
Total	100	100	100	100	100	100	100	100

LETTERS OF COMPLAINT TO INTERMEDIARIES

A quantitative analysis of the main issues and outcomes of the letters of complaint provides a wealth of information. Based on data from supervisory reports, in 2017 the number of letters of complaint received by intermediaries grew by 8 per cent, numbering just above 300,000. The most frequent issues related to financing and payment systems (38 and 31 per cent respectively; Figure A).

Figure A

Letters of complaint received in the banking system
(per cent)

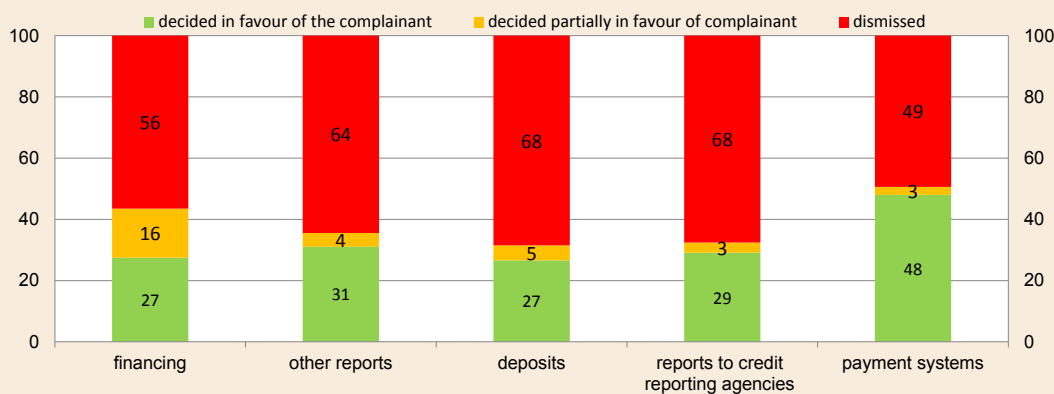


Source: Supervisory reports.

In 2017, approximately 34 per cent of the letters of complaint had a favourable outcome for the complainant, 8 per cent had a partially favourable outcome, while the other 58 per cent were dismissed. With regard to the subject matter, issues concerning payment systems had the highest percentage of favourable outcomes (Figure B).

Figure B

Outcomes
(per cent)



Source: Supervisory reports.

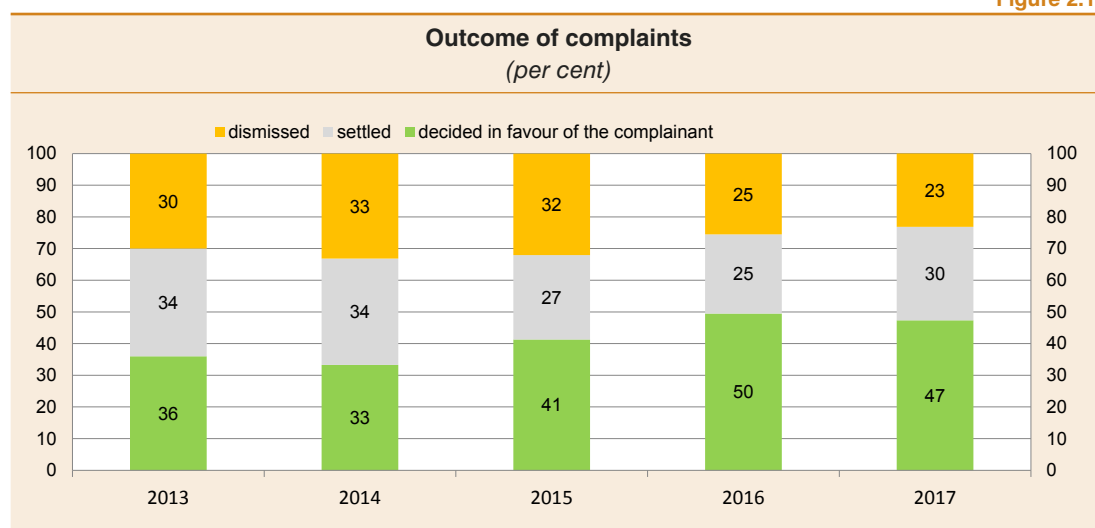
The complaints submitted to the ABF represented around 10 per cent of the letters of complaint received by intermediaries, even though the letters of complaint may concern matters other than those that can be submitted to the ABF.

SUPPLY

Outcomes

In 2017 the ABF panels issued decisions on 23,968 complaints (13,770 in 2016). In 77 per cent of the cases which were resolved, the outcome was substantially in favour of the complainant (75 per cent in 2016). In 47 per cent of those cases, the panels partially or totally upheld the complaint while in the other 30 per cent the parties settled before a decision was issued. The panels rejected 23 per cent of complaints, either because the customer's case was unfounded or not adequately proven, or on procedural grounds (Figure 2.17). The percentage of disputes decided substantially in favour of the complainants was greatly affected by the high share (84 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 apply a uniform approach.

Figure 2.17

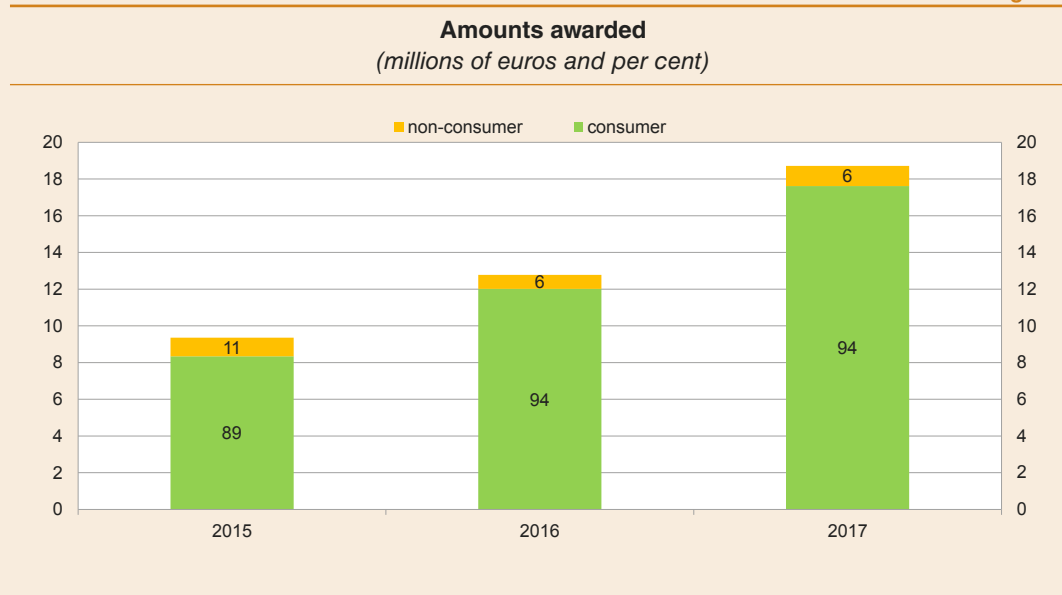


AWARDS TO COMPLAINANTS

The total amount awarded by the ABF to customers in the past year increased further, reaching around €19 million (€13 million in 2016). The data only take into account the cases in which the panel determined the amount of the award, not those cases where the parties reached an agreement before the ABF issued a decision. Like in 2016, in 2017 the amounts awarded by the first five intermediaries, ordered by value of the amounts awarded, were equal to 60 per cent of the total. The amounts awarded to both consumers and non-consumers increased; 94 per cent

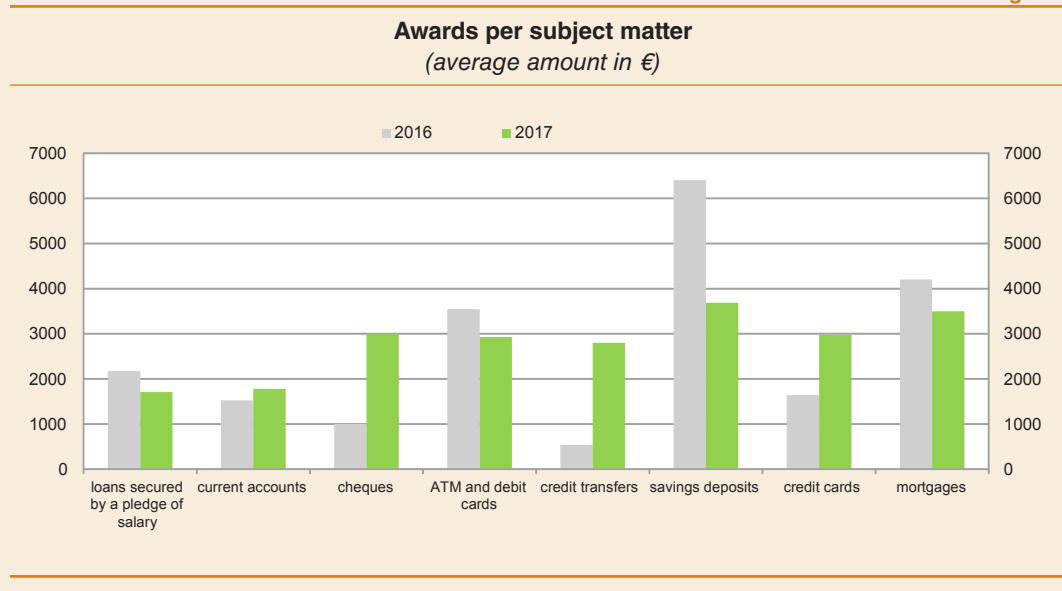
of awards were in favour of consumers (Figure A). The average amount awarded decreased further, falling from €2,100 to €1,800 (€1,700 for consumers and 5,600 for non-consumers).

Figure A



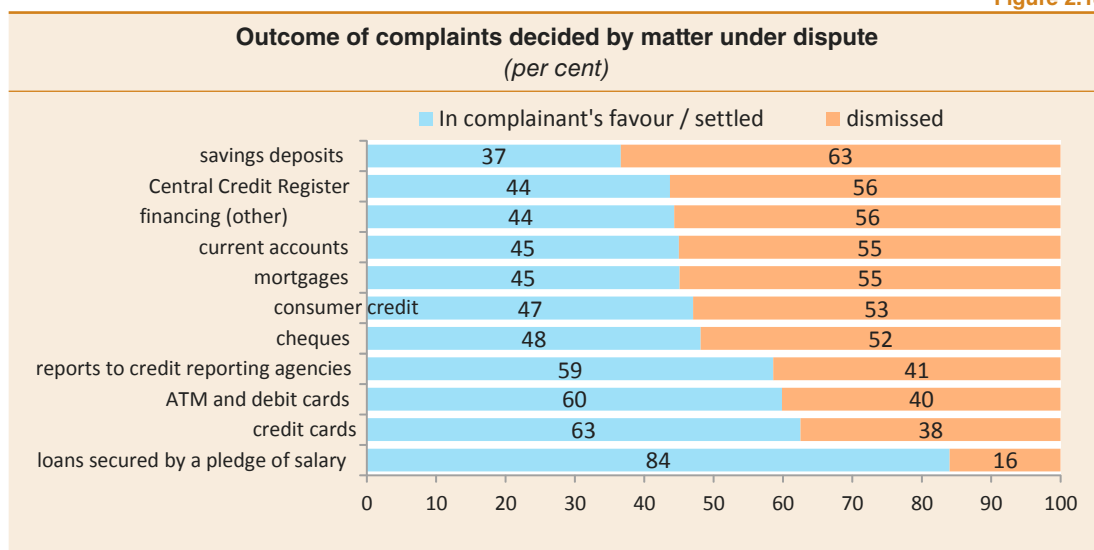
Among the more frequently-raised matters, the highest amounts related to savings deposits and mortgages (Figure B). The average value of awards regarding loans secured by a pledge of salary was equal to approximately €1,700.

Figure B



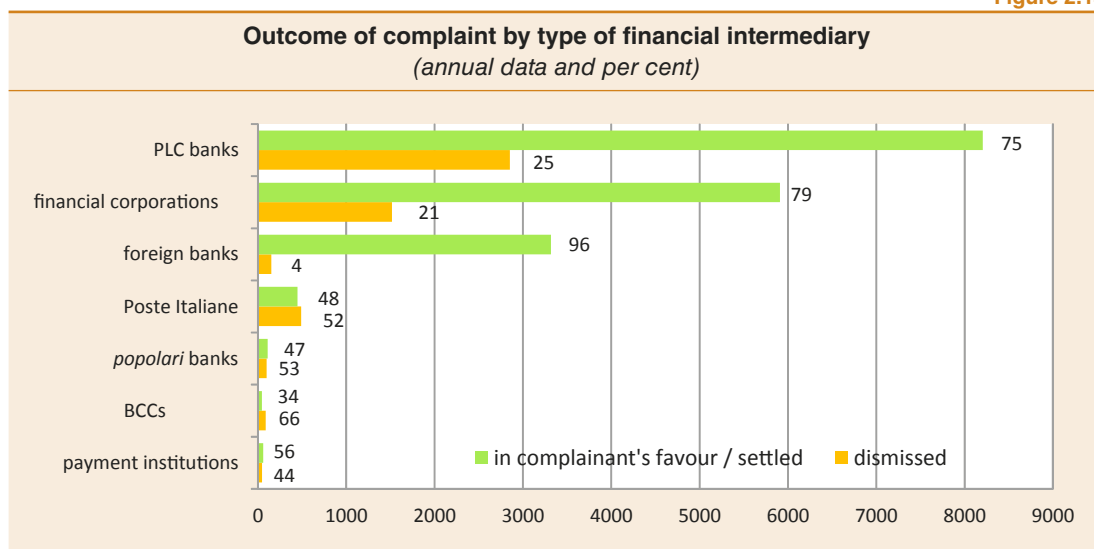
Outcomes differed significantly depending on the matter under dispute: the percentage of cases decided in favour of the complainant or settled was lower for savings deposits, while it was considerably higher for loans secured by a pledge of salary (Figure 2.18).

Figure 2.18



Outcomes also differed according to the type of financial intermediary. As in 2016, BCCs had the lowest incidence of adverse outcomes, while foreign banks and financial corporations had the highest (Figure 2.19).

Figure 2.19



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 2.20).

An analysis of the outcomes of complaints according to type of complainant (consumer and non-consumer) shows that the percentage of substantially positive outcomes (decisions in favour of the complainant and settlements before decision) was higher for consumers (Figures 2.21.a and 2.21.b). This reflects the higher incidence of disputes involving loans secured by a pledge of salary, which had higher success rates.

Figure 2.20

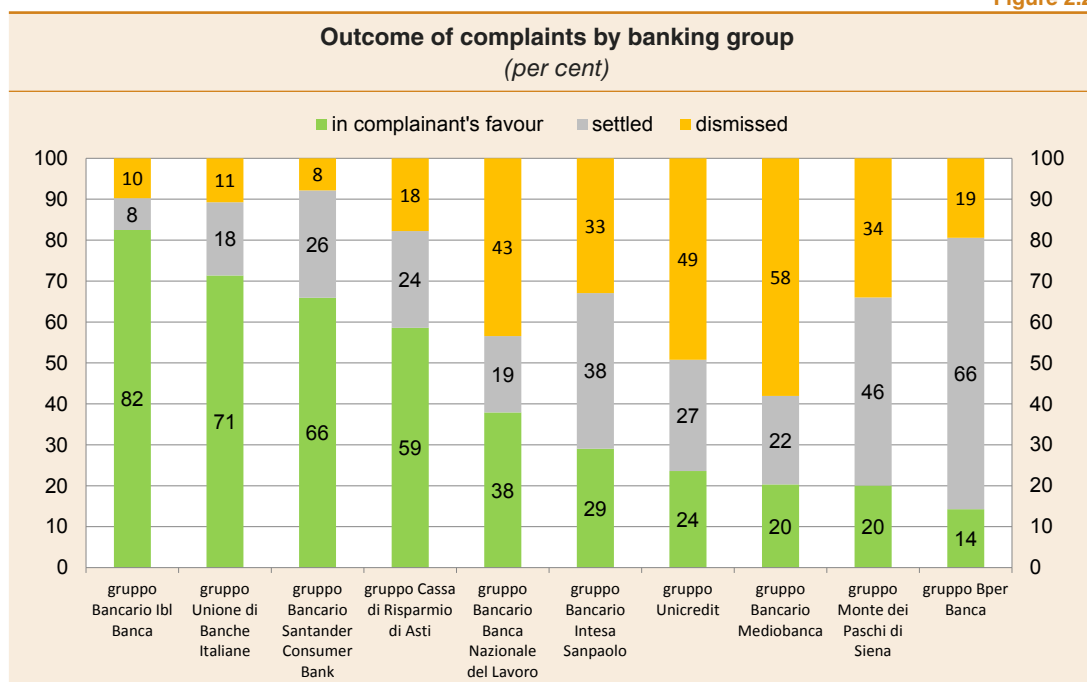
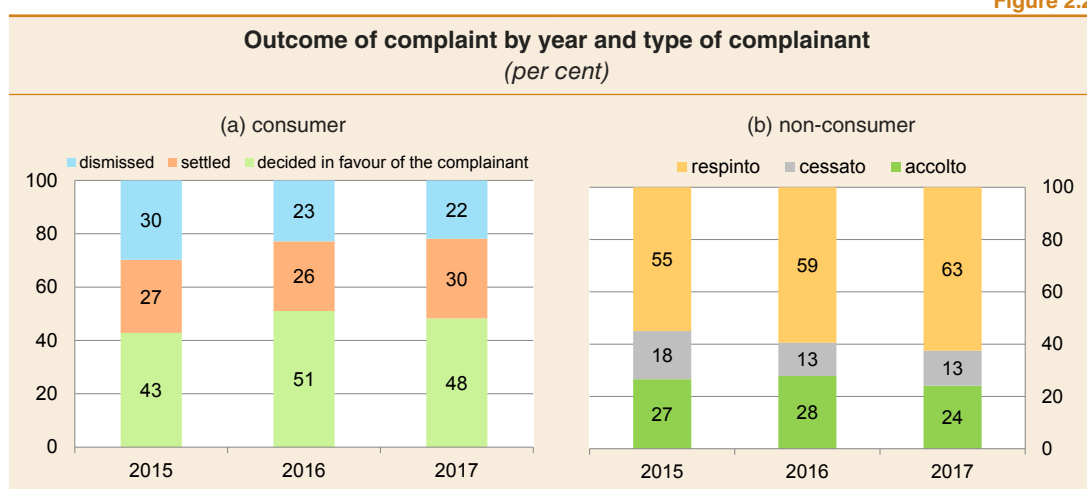


Figure 2.21



In 2017, the non-compliance rate was less than 1 per cent, thus confirming the effectiveness of the ABF, even though its decisions are not binding.

Non-compliance mainly related to loans secured by a pledge of salary. Failure to comply also involved decisions dealing with mortgages indexed to the Swiss franc, consumer credit, requests for documents under Article 119 of the Consolidated Law on Banking, guarantees provided by loan guarantee consortia and lien deletion.

Sometimes (for instance, in issues concerning mortgages indexed to the Swiss franc), intermediaries justified their non-compliance by stating that a controversy involving a matter equivalent to the ABF decision was simultaneously pending before the courts.

In some cases, particularly in decisions relating to guarantees provided by loan guarantee consortia, the non-compliant intermediary was removed from supervisory registers and lists. In other circumstances – for instance, in matters concerning requests for documentation – non-compliance was not due to the intermediary’s opposition to the ABF’s decision, but rather to its inability to locate the document in question.

Finally, it should be noted that in 2017, many intermediaries belatedly complied with decisions after their non-compliance was already made public.

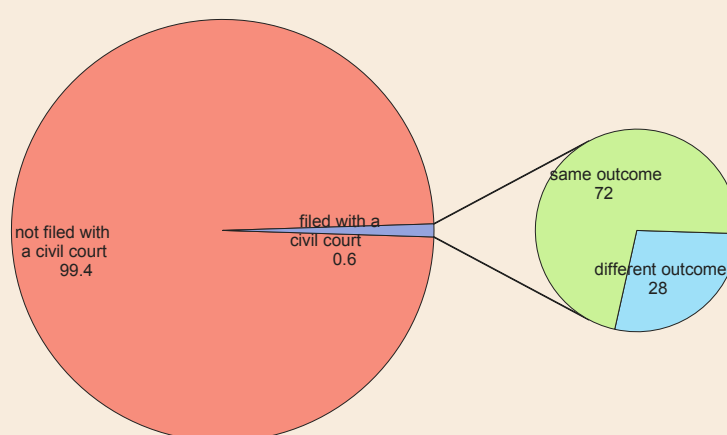
THE ABF AND THE CIVIL COURTS

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

In the first few months of 2018, a survey entitled *‘I reclami, i ricorsi ABF, la mediazione e la giustizia ordinaria’* (Letters of complaint, ABF complaints, mediation and the civil justice system) was carried out on the main intermediaries (based on the number of appeals received in the three-year period 2015-17) in order to obtain information on the number of disputes filed (by complainants or intermediaries) with the civil courts following an ABF decision. The information obtained¹ shows that 0.6 per cent of the disputes decided by the ABF were then brought before a civil court judge. In 96 per cent of cases, the civil court proceedings were initiated by the customer and in 72 per cent of the cases the ABF’s decision was upheld (see the figure). More than half of the cases brought before the civil courts concerned consumer credit, particularly loans secured by a pledge of one-fifth of salary.

Figure

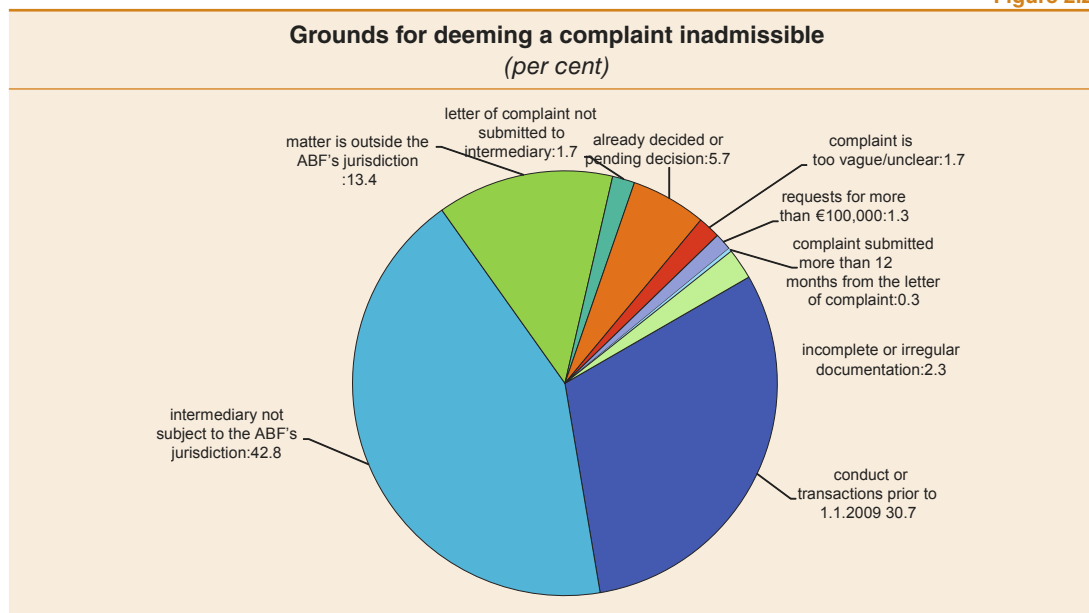
Disputes filed with the civil courts
(per cent)



¹ Thirty-seven intermediaries participated in the survey, representing more than 70 per cent of the complaints decided by the ABF from 2015 to 2017.

In 2017, 3 per cent of the complaints submitted were rejected as inadmissible by the Chair of the panel (2.8 per cent in 2016); of these, 31 per cent (29 per cent in 2016) were dismissed because the conduct or transaction occurred prior to 1 January 2009 (Figure 2.22).

Figure 2.22



As a result of the constant increase in workload, the timeframe for reaching a decision on a complaint (calculated from the date the complaint is registered to the date the decision is sent to the parties) was equal to 261 days, net of the suspension periods provided for by the ABF Provisions; the number becomes 294 days when the suspensions are taken into account.²

CIVIL MEDIATION

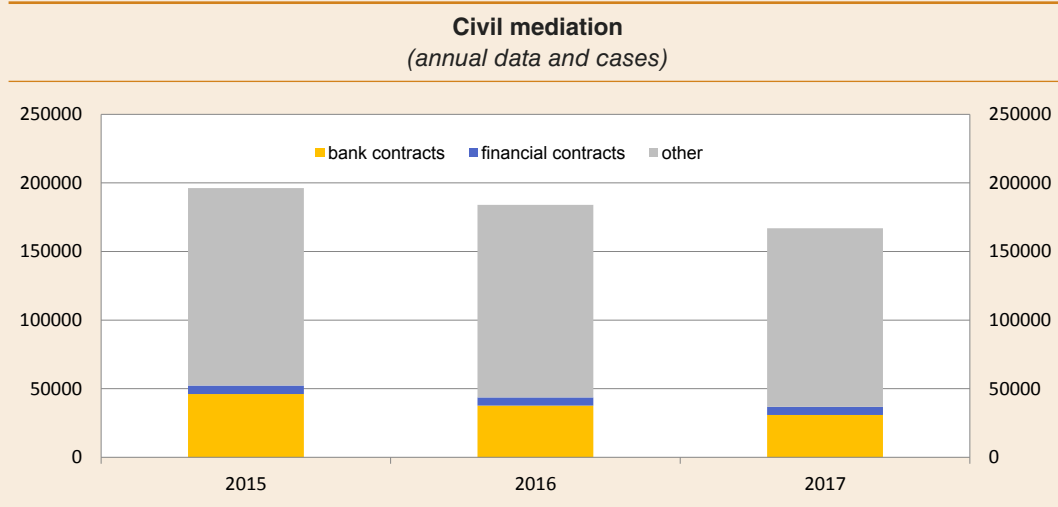
In 2017, the number of proceedings brought before mediators decreased by 9 per cent overall. As regards proceedings involving banking matters, the reduction was more marked (-18 per cent; Figure A) while those concerning financial agreements remained stable (1 per cent).

The parties failed to participate in the mediation in 48 per cent of the cases; this percentage rose to 54 per cent for bank contracts and 62 per cent for 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 43 per cent of the cases; the percentage was much lower for bank and financial contracts (17 and 27 per cent respectively).

In 2017 the average economic value of a mediation case was €40,000 for mediation cases involving a bank contract and €17,500 for those involving a financial contract.

² From 2017 onwards, the average timeframe also refers to complaints settled by the parties or withdrawn by the complainant. In these cases, the ABF panels only notify the parties of the outcome.

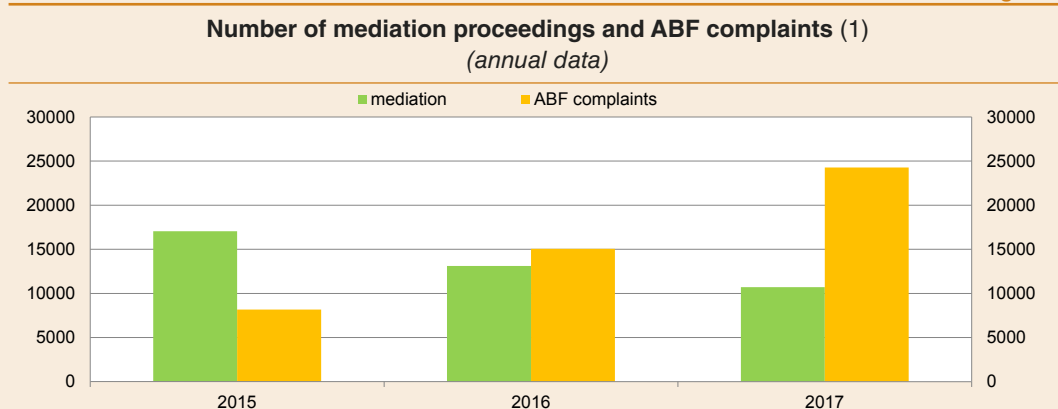
Figure A



Source: Ministry of Justice.

According to the survey 'I reclami, i ricorsi ABF, la mediazione e la giustizia ordinaria' carried out in 2018 on a sample of intermediaries, the number of mediation proceedings relating to bank contracts decreased by 18 per cent in 2017. In contrast, the number of complaints filed with the ABF increased by 61 per cent (Figure B).

Figure B



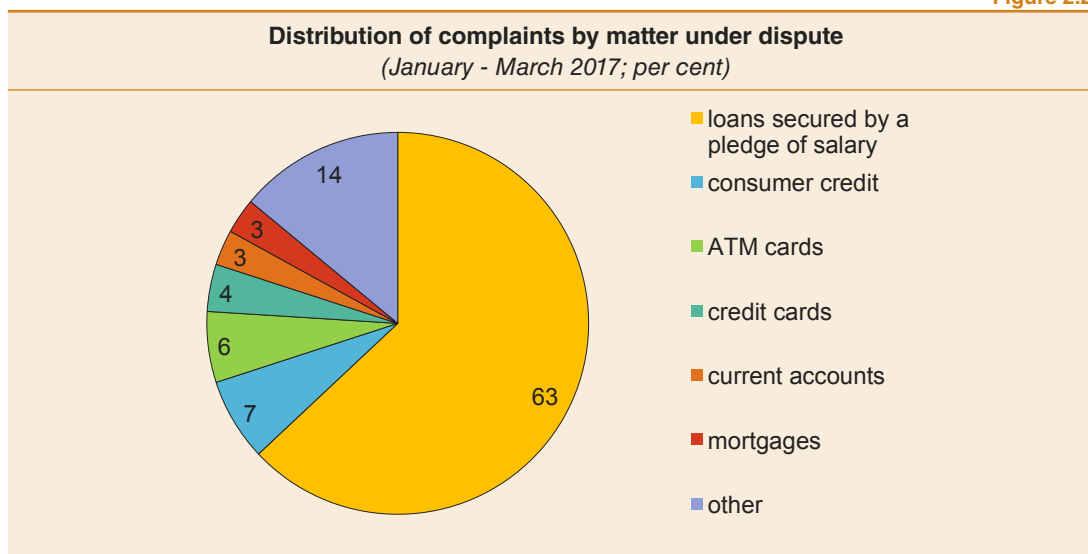
(1) Based on data from the sample of intermediaries involved in the survey.

Data on the first few months of 2018

In the first quarter of 2018, approximately 8,000 complaints were submitted to the Ombudsman, remaining stable compared with the same period last year (Figure 2.23).

The number of complaints involving loans secured by a pledge of salary decreased by 17 per cent (representing 63 per cent of complaints, compared with 73 per cent in 2017); by contrast, controversies concerning consumer credit tripled.

Figure 2.23

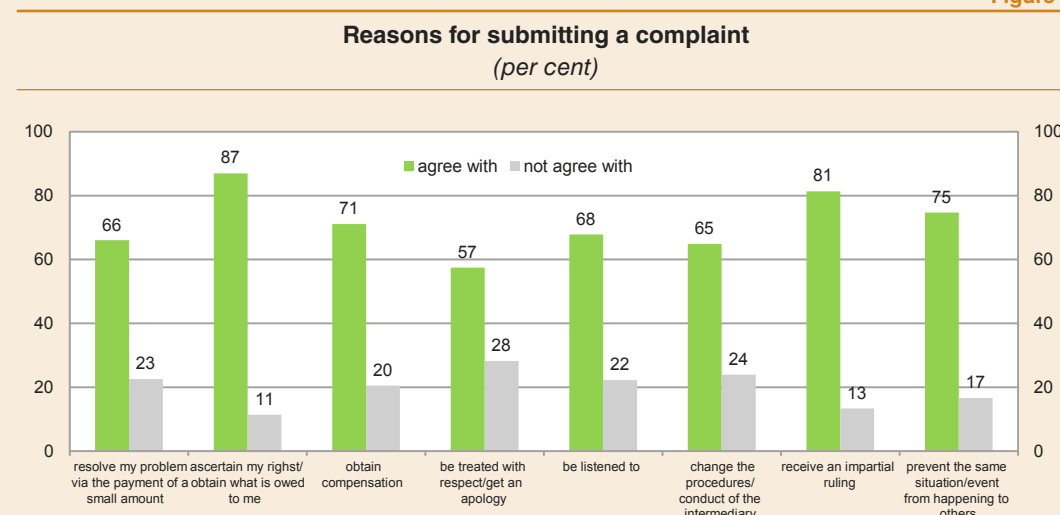


LEVEL OF CUSTOMER SATISFACTION

In the first few months of 2018, customers who submitted a complaint to the ABF were asked to participate in a customer satisfaction survey in order to identify any areas of weakness and to improve the system. Around 3,000 complainants were contacted and a fifth completed the questionnaire.¹

Among the main reasons cited for submitting a complaint to the ABF were the ascertainment of a right and the desire to receive an impartial ruling. Furthermore, for three-quarters of the customers surveyed, it was deemed important to avoid any repetition of the events (Figure A).

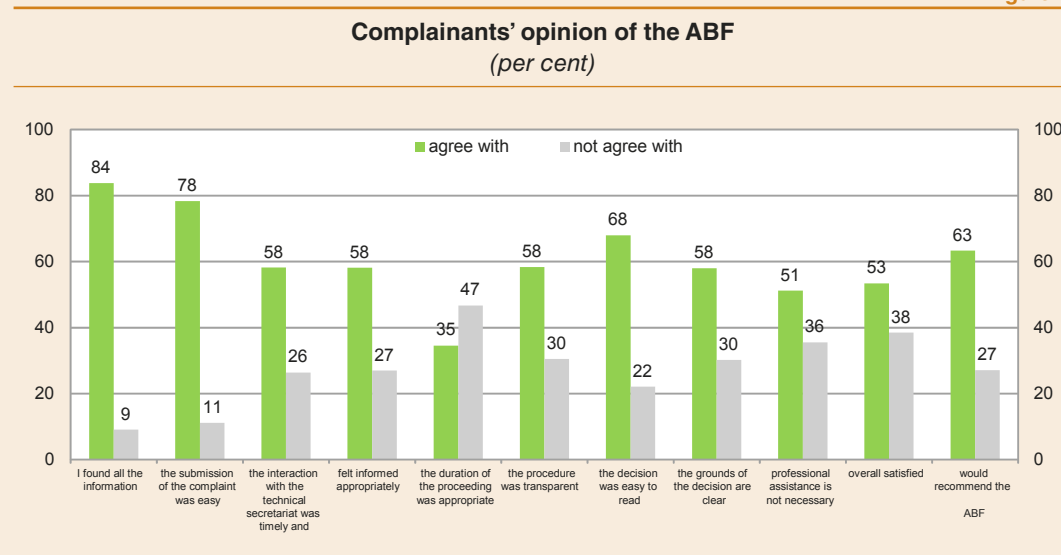
Figure A



¹ Of the persons surveyed, 46 per cent of their complaints were upheld, 47 per cent were dismissed and 7 per cent were settled.

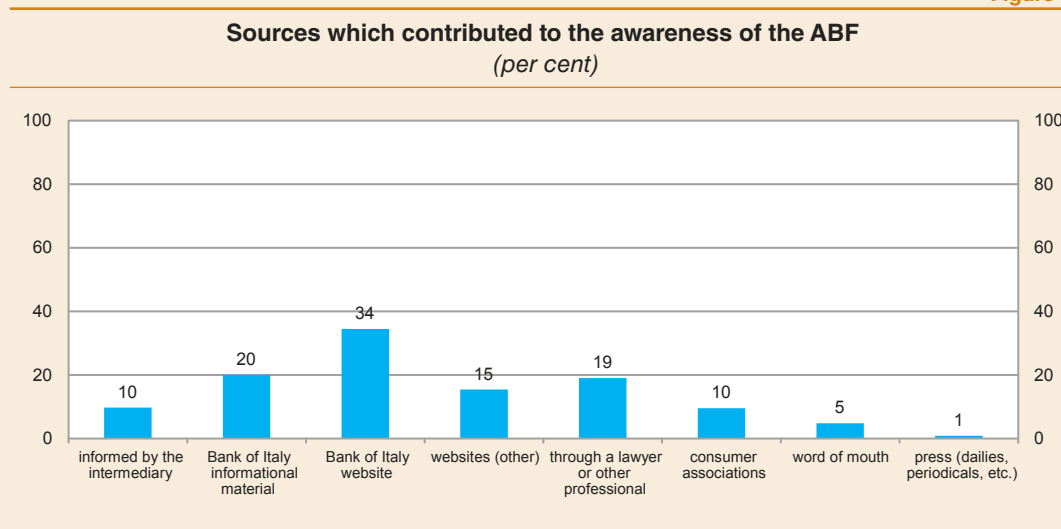
Of the customers surveyed, 84 per cent found that it was easy to locate the information needed to file the complaint; 78 per cent found that it was not difficult to file the complaint itself. Only 35 per cent believed that the length of the procedure was appropriate (Figure B).

Figure B



The main channels through which complainants became aware of the ABF are websites, the Bank of Italy's informational material and consumer associations (Figure C); internet communication is the most suitable tool to further increase awareness.

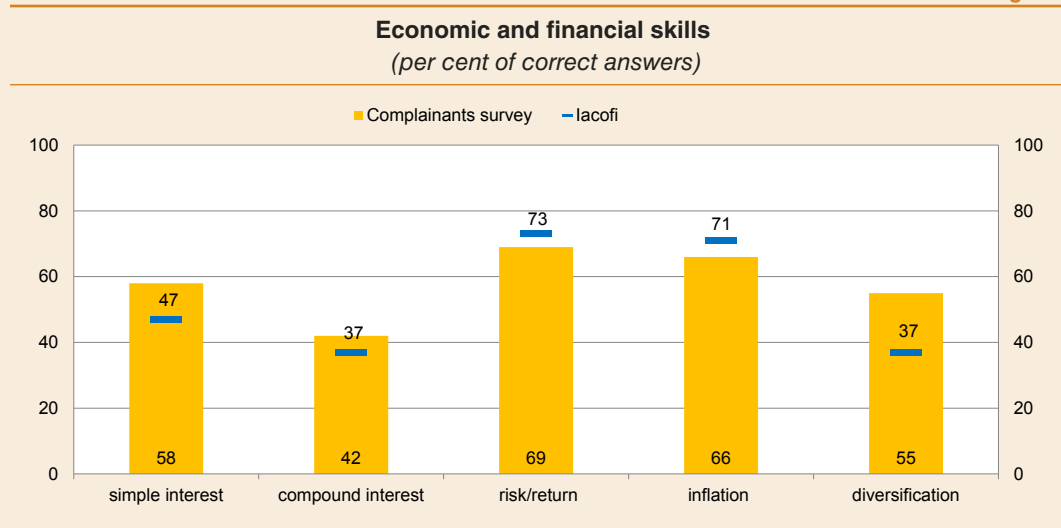
Figure C



One section of the survey was focused on economic and financial skills. Questions were chosen among those used in the *Indagine sull'alfabetizzazione e le competenze finanziarie*

degli italiani” (Survey on the literacy and financial skills of Italians, Iacofi), carried out by the Bank of Italy at the beginning of 2017. Of the complainants surveyed, 58 per cent correctly answered the questions concerning simple interest and 42 per cent responded correctly to the questions regarding compound interest, higher than the Italian average from the Iacofi survey (47 and 37 per cent, respectively). Questions relating to the relationship between risk and return, inflation and the diversification of investments were correctly answered by 69, 66 and 55 per cent of complainants respectively (73, 71, and 37 per cent in the Iacofi survey; Figure D).

Figure D





3. THE INTERNATIONAL LANDSCAPE

Out-of-court settlement of cross-border disputes in Europe: Fin-Net

There are 60 alternative dispute resolution schemes that are currently Fin-Net members.¹ They operate in the European Union, Iceland, Liechtenstein and Norway. The ABF has been a member since 2011. A Memorandum of Understanding approved in 2016 defines how the members have to cooperate to settle disputes out-of-court.²

The network enables consumers to use their own country's ADR scheme to file a complaint against an intermediary based in another country.³

Thanks to the European Commission's support, two plenary meetings were held in Brussels, in May and in June 2017. During these meetings, Fin-Net members discussed issues of common interest, including international best practices to ensure that they be applied in the broadest, most uniform manner possible in the member states.

Last year's meetings dealt with, *inter alia*, the stage of transposition of the ADR Directive in the member states, the functioning of the online dispute resolution (ODR) platform managed by the European Commission, as well as the many initiatives to increase awareness of Fin-Net.

In relation to the last point, the official Fin-Net website is currently available in a new format and provides information about its members in 25 languages. In addition, the Commission has posted a promotional video (translated into several languages) about the network's functions and goals, and, together with its members, has advertised the video on social media (the video is also available in Italian on the [ABF's website](#)).

The meetings also focused on customers' level of satisfaction with the ADR systems and on sharing best practices. It was found that only some systems have implemented feedback mechanisms or regularly submit surveys to their customers (for more information about the first results of the survey carried out by the Bank of Italy on customers' level of satisfaction, see Section 1, Chapter 2, 'Data on complaints and operations').

¹ No new memberships have been recorded since last year. Together with the 60 ADR schemes that are already Fin-Net members, there are also three affiliates from two countries which are not part of the EEA (Switzerland and the Channel Islands). Even though they are not legally obliged to apply the ADR Directive, they have chosen to respect its main principles.

² Memorandum of Understanding on a Cross-Border Out-of-Court Complaints Network for Financial Services.

³ For more information on how to file this type of complaint, please visit the Fin-Net page on the [ABF's website](#) under the section 'What is the ABF'.

A conference entitled ‘Banking and Financial Dispute Resolution: the Italian Experience in the European Context’ was held in Rome in September 2017. The conference was organized jointly by the Bank of Italy, Fin-Net, Roma Tre University and Université de Luxembourg. It was attended by representatives from several European ADR schemes focused on banking and financial disputes as well as by officers from the European Commission and by experts and scholars in this field. The conference gave participants the opportunity to discuss and share their experiences.

The overall results of the survey carried out within Fin-Net

In the first few months of 2017, a survey on the main characteristics of the members of Fin-net was carried out upon the Bank of Italy’s initiative; preliminary results were released in the [Annual Report for 2016](#).

The overall picture provided by the survey, which involved 48 ADR schemes from 27 member states,⁴ shows that Fin-Net members vary in the scope of their jurisdiction and in their procedures, despite their membership in the same network.⁵

For about half of the ADR schemes, their jurisdiction extends exclusively to disputes concerning only one financial sector (banking, investment or insurance services). Just over a third have jurisdiction over more than one sector. Only a few schemes also accept non-financial disputes; they are usually tasked with resolving any type of dispute between consumers and businesses.⁶

Approximately half of the schemes were established on a voluntary basis, while the other half were established by law: the former are all private while more than three-quarters of the latter are public.

The ADR system in Germany is unique: a series of private schemes are accompanied by two public bodies, established at the supervisory authority (BaFin)⁷ and at the central bank (Deutsche Bundesbank).⁸ The public ADRs only examine complaints concerning intermediaries who are not members of the private schemes that have jurisdiction to resolve the relevant dispute.

⁴ See Table 11 in the section ‘Statistical data’ in the Appendix (only in Italian).

⁵ This paragraph partially reiterates some of the points that were already made in the Annual Report for 2016, but updates them with the responses received in the first few months of 2018 (the first phase of the survey involved 32 schemes from 20 member states).

⁶ This is the case of Schlichtung für Verbrauchergeschäfte (Arbitration Board for Consumer Businesses, Austrian ADR), Centro De Arbitragem de Conflitos de Consumo de Lisboa (Lisbon Arbitration Centre for Consumer Conflicts, Portuguese ADR) and Allmanna reklamationsnämnden (National Board for Consumer Disputes, Swedish ADR).

⁷ Schlichtungsstelle bei der Bafin (Arbitration Board at BaFin); BaFin is the German federal authority in charge of supervising the financial sector.

⁸ Schlichtungsstelle bei der Deutschen Bundesbank (Arbitration Board at the Deutsche Bundesbank).

As regards almost two thirds of the ADR schemes, the intermediaries' participation is mandatory; in certain cases adhesion may be mandatory or voluntary depending on the issue involved.⁹

In most cases access to the ADR scheme is available to both consumers and professionals. However, professionals may sometimes have limited access: for instance, access may be limited to only small businesses or to certain types of disputes. This is the case for two private ADR schemes in Germany that are active in the banking sector and that limit access by professionals to complaints relating to payment services.¹⁰

One quarter of the schemes also allow intermediaries to file a complaint, but sometimes this is subject to certain conditions (for instance, the French ADR scheme that operates in the insurance sector requires the consumer's consent).¹¹

Access to the schemes is generally free of charge; when it is not, fees typically do not exceed €25.¹²

In three out of four schemes, a complaint may be submitted only after a preliminary claim has been filed with the financial intermediary. Legal assistance is never required. Usually, only the documentation provided by the parties is taken into account: just a third of the schemes allow witnesses to testify. Some schemes also take into account other forms of evidence like expert reports (as in the Portuguese ADR scheme). Some allow all forms of evidence deemed admissible before the courts. More than half have the authority to request additional evidence to supplement the evidence submitted or requested by the parties.

Complaints can be filed in different ways (via e-mail, regular mail, fax, online submission and by hand). Almost two thirds of the schemes allow complainants to submit the complaint through an online platform, in accordance with the ADR Directive.

In more than half of the schemes the decision is taken by a single person; in one-fourth the decision is reached by a panel. In the remaining schemes the decision may be taken by both a single person and a panel depending, for instance, on the complexity

⁹ For instance, this is the case of the Financial Ombudsman Service (FOS), an ADR scheme operating in the UK in the banking, insurance and investment service sectors; intermediaries must adhere to the FOS as regards controversies involving entities authorized by the Financial Conduct Authority (FCA) in specific areas, such as consumer credit, mortgage loans and payment services (see *FCA Handbook*, available on the authority's website). With reference to the Portuguese ADR scheme (active in all segments of the financial sector and for all kinds of consumer disputes), the intermediaries' adhesion is mandatory only as regards payment services and credit contracts.

¹⁰ This is the case of the Ombudsman der privaten Banken (Ombudsman Scheme of the Private Commercial Banks) and of the Ombudsmann der öffentlichen Banken Deutschlands (Ombudsman of German Public Sector Banks).

¹¹ This is the case of the Médiateur de l'Assurance (France's Insurance Mediator).

¹² The two Icelandic ADR schemes are an exception, as they charge complainants slightly higher fees: the Úrskurðarnefnd um viðskipti við fjármálafyrirtæki (Complaints Committee on Transactions with Financial Firms) requests a fee ranging from €40 to €250 (depending on whether the complainant is a natural or a legal person); the Úrskurðarnefnd í váttryggingamálum (Insurance Complaints Committee) requires a fee of about €75.

of the dispute (this is the case of the Swedish ADR scheme as regards consumer controversies).¹³

In most of the schemes, the procedure ends with a recommendation or a non-binding decision, and the parties are free to bring the dispute before the courts. In some cases a financial intermediary's non-compliance with a decision is made public.

However, one-third of the schemes have the authority to issue binding decisions which, in the event of non-compliance, may be enforced by the judicial authorities.

The enforceability of the decision is often subject to certain conditions. For example, in Germany, three private schemes that operate in the banking and investment funds sectors¹⁴ issue decisions that are binding for the financial intermediary only if the decision is accepted by the client and if the value of the dispute does not exceed €10,000. Similarly, decisions issued by the UK's FOS are binding only if they are accepted by the customer. In contrast, decisions issued by the four Danish ADR schemes are binding if they are not opposed by the financial intermediary within 30 days. As concerns the Dutch ADR,¹⁵ the decision is binding if both the intermediary (at the time of its adhesion to the ADR scheme) and the customer (when filing the complaint) expressed in advance their willingness to comply with the decision.¹⁶ In other systems the decision is always binding, as in the case of the Portuguese and Czech ADR schemes.¹⁷

Half of the schemes only perform adjudicative functions: their activity consists of issuing decisions which uphold or reject the complaints. Instead, the other schemes first perform conciliatory functions, helping the parties reach a settlement agreement, sometimes by means of a dedicated preliminary phase, and serve as a decision-making body in the event the parties fail to reach an agreement. For example, a complaint brought before the FOS only reaches the decision-making stage if an agreement is not reached during the conciliatory phase. Only a small number of ADR schemes perform solely conciliatory functions.

¹³ Instead, in the Portuguese ADR scheme, whether an individual or a panel is involved depends on the phase of the controversy: during the initial phase, an individual is tasked with trying to facilitate a settlement between the parties; if the conciliation fails, a decision is taken by a panel.

¹⁴ The Ombudsstelle für Investmentfonds (Ombudsman Scheme for Investment Funds), the Ombudsstelle für Sachwerte und Investmentvermögen e.V. (Real Asset Investment Arbitration Board), the Ombudsmann der privaten Banken (Ombudsman Scheme of the Private Commercial Banks).

¹⁵ Klachteninstituut Financiële Dienstverlening (Financial Services Complaints Institute), in charge of issues concerning banking, investment and insurance services.

¹⁶ If the customer files a complaint and chooses not to be bound by the decision, the intermediary will also not be bound by that decision, irrespective of whether it had opted to accept it as binding. If the intermediary does not comply with a binding decision, the supervisory authority may withdraw its authorization to carry out its activities.

¹⁷ Finanční arbitráž České republiky (Financial Arbitrator of the Czech Republic) is in charge of banking, investment and insurance services.

Less than one-fourth of the schemes allow decisions to be appealed; those that do require the emergence of new evidence or facts as grounds for the appeal.¹⁸

Recourse to an ADR scheme is usually not a precondition for filing a judicial proceeding on the same matter. However, German federal law confers to the federated States the right to decide whether to require that a case be submitted to an ADR scheme as a pre-condition to accessing the court system.¹⁹ Currently, only a few States have exercised this right. In France, a legislative proposal is being considered which would make mediation procedures a pre-condition for filing a judicial proceeding, but only with regard to minor controversies.

Most schemes are funded either directly or indirectly by the intermediaries, also through their professional associations, while less than a third are funded by public entities (usually ministries or supervisory authorities).

Information obtained through the ADR schemes' activity is often used by the supervisory authorities for the purposes of supervising intermediaries. In some systems, the ADR schemes report to the competent authorities any violations of applicable law on the part of intermediaries, as in the UK and in Germany.²⁰ In particular, in Germany the ADR schemes are now required to submit to BaFin any information concerning the conduct of intermediaries which might significantly affect customers' interests.²¹

Sometimes, as in Spain, the information is privileged because the ADR scheme is established within the supervisory authority²² or operates on the same premises, even though it does so independently.²³ In other States there is less cooperation, as the data transmitted by the ADRs to the supervisory authority are only statistical (for instance,

¹⁸ This is the case for the following schemes: Realkreditankenævnet (Danish Mortgage Credit Complaint Board), the Ankenævnet for Investeringsfonde (Danish Complaint Board of Investment Funds), the Ankenævnet for Fondsmæglerselskaber (Complaint Board of Danish Securities and Brokering Companies) and the Pengeinstitutankenævnet (Danish Complaint Board of Banking Services); the Commission de Surveillance du Secteur Financier (Financial Sector Supervisory Commission), Luxembourgish ADR scheme in charge of banking and investment services; the Ombudsman der Privatversicherung und der Suva (Ombudsman of Private Insurance and of Suva) and the Schweizerischer Bankenombudsman (Swiss Banking Ombudsman), bodies operating in Switzerland in the banking sector and in the investment and insurance sectors respectively.

¹⁹ See paragraph 15a, Abs. 1, No. 1 Einführungsgesetzes zur Zivilprozessordnung (the preamble of the German Code of Civil Procedure).

²⁰ The FOS, in addition to submitting information on the volume and content of the appeals received, reports intermediaries who violated the law.

²¹ It refers to what is provided for in Finanzschlichtungsstellenverordnung – FinSV, Section III, paragraph 23.

²² In particular, the Departamento de Conducta de Mercado y Reclamaciones of the Banco de España (Market Conduct and Claims Department of 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 (National Securities Market Commission), the investment services supervisor; finally, the Servicio de Reclamaciones (Complaints Service of the Directorate General on Insurance and Pension Funds), an ADR body operating in the insurance sector, is established at the Dirección General de Seguros y Fondos de Pensiones.

²³ This is the case of the two Icelandic ADR schemes operating in the financial and insurance services sector (see note 11).

the number of complaints and the recurring issues) and do not include information about individual cases and individual intermediaries.²⁴

With reference to the size of the ADR schemes, the most active one is the FOS (around 319,000 complaints were received in 2016) followed by the ABF; the Slovenian scheme operating in the insurance sector was established in 2016²⁵ and received the lowest number of complaints (less than 50). The median number of complaints filed with the ADR schemes in 2016 was about 1,700.²⁶

²⁴ This is the case, for example, of the Ombudfin, the Belgian body whose scope extends to banking and investment services, and of the Austrian ADR operating in all the financial sectors (see note 5).

²⁵ This is the case of the Mediacijski Center Slovenskega Zavarovalnega Združenja (Mediation Center of Slovenian Insurance Association). Note furthermore that the Bankový ombudsman Slovenskej bankovej asociácie (Banking Ombudsman of Slovak Banking Association), in charge of the banking sector, established in 2016, and two German ADR bodies (the Ombudsstelle für Sachwerte und Investmentvermögen e.V. and the Ombudsstelle für Investmentfonds) received less than 100 complaints. As for Germany, the small number of complaints examined per year is probably due to the fact that competencies are split among numerous ADR schemes.

²⁶ The average number of complaints received, greatly influenced by the number of complaints submitted to FOS, is about 11,800.