

Regulatory Procedure

HOW TO APPROACH THE BANKING MOHTASIB (OMBUDSMAN)



Small and Medium Enterprises Development Authority

**Ministry of Industries & Production
Government of Pakistan**

www.smeda.org.pk

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December 2022

Table of Contents

1	INTRODUCTION OF SMEDA	3
2	ROLE OF LEGAL SERVICES CELL SMEDA	4
3	DISCLAIMER	4
4	WHO IS BANKING MOHTASIB.....	5
5	APPLICABLE LAW	5
6	NATURE OF COMPLAINTS TO BE MADE TO THE BANKING MOHTASIB.....	5
6.1	IN RESPECT OF PRIVATE SECTOR BANKS	5
6.2	IN RESPECT OF PUBLIC SECTOR BANKS	5
7	ADVANTAGES OF APPROACHING THE BANKING MOHTASIB.....	6
8	MATTERS OUTSIDE THE SCOPE OF BANKING MOHTASIB	6
9	HOW TO FILE A COMPLAINT.....	6
10	INVESTIGATION ON COMPLAINTS	8
11	HOW MUCH TIME MAY A CASE TAKE	8
12	APPEAL AGAINST THE BANKING MOHTASIB’S DECISION	8
13	REPRESENTATION TO THE PRESIDENT	8
14	COMPLAINT FORM	9
15	THREE SIMPLE STEPS FOR FILING A COMPLAINT	11
16	IMPORTANT INFORMATION	11

1 Introduction of SMEDA

The Small and Medium Enterprises Development Authority (SMEDA) was established with the objective to provide fresh impetus to the economy through the launch of an aggressive SME development strategy. Since its inception in October 1998, SMEDA has adopted a sectoral SME development approach. A few priority sectors were selected on the criterion of SME presence. In depth research was conducted and comprehensive development plans were formulated after identification of impediments and retardants. The all-encompassing sectoral development strategy involved overhauling of the regulatory environment by taking into consideration other important aspects including finance, marketing, technology and human resource development.

After successfully qualifying in the first phase of sector development SMEDA reorganized its operations in January 2001 with the task of SME development at a broader scale and enhanced outreach in terms of SMEDA's areas of operation. Currently, SMEDA along with sectoral focus offers a range of services to SMEs including over the counter support systems, exclusive business development facilities, training and development and information dissemination through a wide range of publications. SMEDA's activities can now be classified into following broad areas:

***Creating a Conducive Environment;** includes collaboration with policymakers to devise facilitating mechanisms for SMEs by removing regulatory impediments across numerous policy areas*

***Cluster/Sector Development;** comprises formulation and implementation of projects for SME clusters/sectors in collaboration with industry/trade associations and chambers*

***Enhancing Access to Business Development Services** development and provision of services to meet business management, strategic and operational requirements of SMEs.*

SMEDA has so far successfully formulated strategies for sectors including fruits and vegetables, marble and granite, gems and jewelry, marine fisheries, leather and footwear, textiles, surgical instruments, transport and dairy..

Along with the sectoral focus a broad spectrum of services are now being offered to the SMEs by SMEDA, which are driven by factors such as enhanced interaction amongst the stakeholders, need based sectoral research, over the counter support systems, exclusive business development facilities, training and development for SMEs and information dissemination through a wide range of publications.

2 Role of Legal Services Cell SMEDA

The Legal Services Cell (LSC) is a part of Business & Sector Development Services Division of SMEDA and plays a key role in providing an overall facilitation and support to SMEs. The LSC provides guidance based on field realities pertaining to SMEs in Pakistan.

LSC believes that information dissemination to SMEs on the existing regulatory environment is of paramount importance and plays a pivotal role in their sustainable development.

In order to facilitate SMEs at the individual level LSC has developed user-friendly systems, which provide them with detailed description of laws and regulations including processes and steps required for compliance.

The purpose of this document is to provide SMEs, service providers, companies and firms with information pertaining to procedural requirements regarding filing a complaint with the Banking Mohtasib.

3 Disclaimer

Information in this document is provided only for general information purpose and on an "as is" basis without any warranties of any kind, as laws and ancillary rules and regulations are subject to change. SMEDA assumes no responsibility for the accuracy or completeness of this information and shall not be liable for any loss arising from its use.

4 Who is Banking Mohtasib

The Banking Mohtasib has been established to entertain complaints from customers, borrowers, banks or from any concerned body or organization. For this purpose this institution has been given certain powers and responsibilities by virtue of applicable law.

5 Applicable Law

The Banking Mohtasib is an independent institution established under Part IV A, Banking Companies Ordinance, 1962. The Federal Ombudsman Institutional Reforms Act, 2013 also sheds light on the subject.

6 Nature of Complaints to be made to the Banking Mohtasib

In relation to all banks operating in Pakistan, the Banking Mohtasib has been empowered to entertain complaints of the following nature:

6.1 In Respect of all banks in general:

- Failure to act in accordance with banking laws and regulations including policy directives or guidelines issued by the State Bank of Pakistan from time to time.
- Delays or fraud in relation to the payment or collection of cheques, drafts or other banking instruments or transfer of funds.
- Fraudulent or unauthorized withdrawals or debit entries in accounts.
- Complaints from exporters or importers, relating to banking services and obligations including letters of credit.
- Complaints from holders of foreign currency accounts whether maintained by residents or non-residents.
- Complaints relating to remittances to or from abroad
- Complaints relating to payment of utility bills
- Complaints relating to markup/interest rates because of the violation of an agreement/State Bank directive.

6.2 In Respect of Public Sector Banks

In respect of public sector banks, the Banking Mohtasib would in addition to the abovementioned, entertain complaints pertaining to;

- Corruption or malafide practices by bank officers
- Gross neglect of duties in dealing with customers
- Delays in taking decisions

Banking Mohtasib has been given adequate powers to call for such information as would be relevant for the disposal of complaints provided confidentiality is not compromised.

7 Advantages of Approaching the Banking Mohtasib

Approaching the Banking Mohtasib is advantageous for the following reasons:

- Accessible, friendly and flexible
- Unlike the courts, formal legal representation is not required.
- Complainants retain the right to take the matter to court if not satisfied
- A cost free service for both complainants and banks
- Hence cost effective

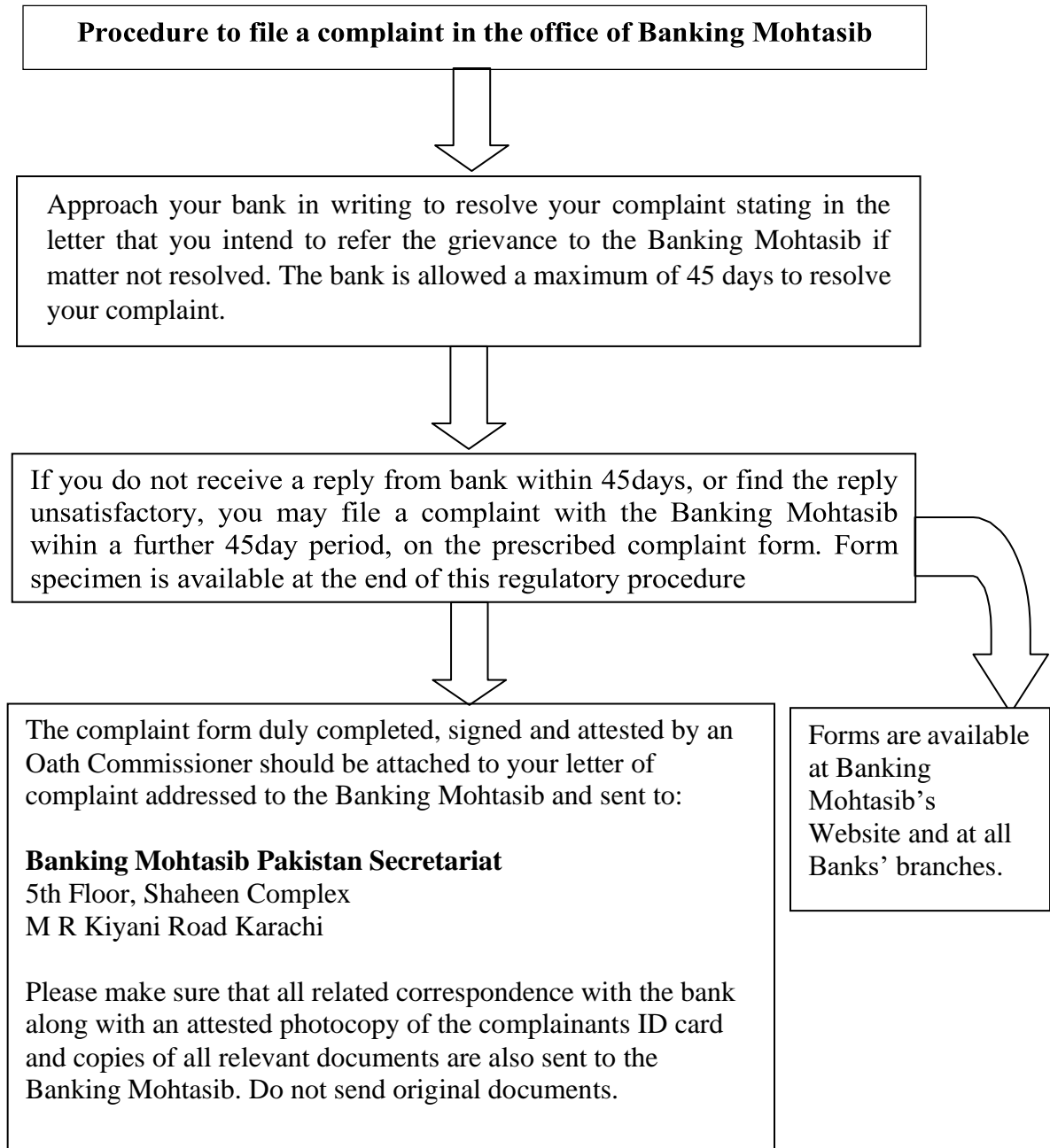
8 Matters outside the Scope of Banking Mohtasib

Following are cases in which Banking Mohtasib cannot intervene;

- To give directions that loans and advances be extended to a complainant.
- To consider a complaint against a bank's
 - Loan mark-up policies,
 - Risk policies
 - Pricing of products and services (schedule of charges)
- Any other policy matter relating to a bank's policy
- A matter being adequately dealt by a court of law or a sub-judice matter
- Complaints of bank employees pertaining to their terms and conditions of service.

9 How to file a Complaint

Filing complaints is easy. Following is the flow chart of the procedure for the filing of the complaints:

Flow Chart

10 Investigation on Complaints

The Banking Mohtasib may adopt the procedure, as he considers appropriate in investigating a complaint.

After a complaint has been lodged, the office of Banking Mohtasib may call for additional information from the complainant in order to acquire a better understanding of the issue at hand.

Where needed, a representative of the office of the Banking Mohtasib may visit the bank to examine its books, procedures and processes etc. relating to the complaint. If necessary, the representative may invite the complainant for discussions at office.

This process may lead to the following outcomes:

- a) Complaint may be found to be unjustified: In such a case, complainant is informed accordingly and the case is closed.
- b) Complaint may be found to be genuine: In such a case, the Mohtasib office will try to resolve the matter cordially between both the parties through mediation.

If the matter cannot be resolved amicably, the Banking Mohtasib shall pass an order directing the bank to rectify the issue in accordance with his directions.

11 How much time may a case take

The office of the Banking Mohtasib tries to resolve most complaints within two months. However, depending on complexity, some complaints could take longer to be resolved.

12 Appeal against the Banking Mohtasib's Decision

The complainant has the right of appeal against the decisions made by the Banking Mohtasib. If the complainant is not satisfied with the decision, he may file an appeal within 30 days from the order of the Banking Mohtasib to the State Bank of Pakistan, which shall in turn decide the matter within 60 days

.In case the Complainant does not choose to go into appeal or does not accept the decision of the State Bank of Pakistan in appeal, they reserve the right to go to a court of law.

13 Representation to the President

Alternatively to the appeal that lies to the State Bank against the decision of the Banking Mohtasib, a party aggrieved by the findings and recommendations of the Banking Mohtasib, may file a representation directly to the President within 30 days of such findings/recommendations. Such a representation shall be decided within 90 days.

14 Complaint Form

The complaint form can be viewed and is available at the Banking Mohtasib website and is also available at all banks' branches .A sample complaint form has been attached as an annexure for reference.

The Banking Mohtasib Pakistan
 Karachi Secretariat 5th Floor, Shaheen Complex
 M.R. Kiyani Road,
 Karachi

Name:Mr./Mrs./Ms.					Occupation:				
Father's/Husband's Name:									
CNIC#:					-				Phone No.(Residence):
Complete Address:									
Phone Office:		FaxNo:		E-mail:			MobileNo:		
Name of Bank and branch address against which complaint is being lodged:									
Account No:		Loan AccountNo:			Debit / Credit CardNo:				
Relief claimed:									
Details of other Credit Card(s) and name(s) of Issuing Bank(s):(if any)									
Complaint in detail: (add page if required)									
Attachments:									
a) Copies of letter dated____ addressed to the bank conveying my intention to approach Banking Mohtasib in respect of the subject complaint and the bank's reply thereto bearing banks acknowledgement with reply received in response from bank.									
b) Copies of all related correspondence with bank. (No Originals)									
c) Attested photocopy of CNIC							Total No. of Attachments-----		
I the complainant do hereby solemnly affirm and declare on oath asunder:-									
i. That the information set forth herein and contained in the attachments hereto are true and correct.									
ii. That the matters directly and substantially in issue in my complaint have not been directly and indirectly in issue in any legal proceedings decided by the State Bank of Pakistan, any court of law or any Mohtasib or Ombudsman.									
iii. That the matters directly and substantially in issue in my complaint are not under investigation by the State Bank of Pakistan and are not matters directly and substantially in issue in any legal or quasi-judicial proceedings currently pending adjudication in any court of law or any Mohtasib or Ombudsman.									
iv. That I have served the Mandatory Notice on the Bank and received reply/no reply during the period.									
That whatever has been stated above is correct to the best of my knowledge and belief and nothing has been concealed there from									
Date:					Signature of Complainant				
Stamp and Signature of Oath Commissioner									

15 THREE SIMPLE STEPS FOR FILING A COMPLAINT

Step One

Approach your Bank in writing to resolve your complaint stating in the letter that you intend to refer the grievance to the Banking Mohtasib if matter not resolved to your satisfaction. The bank is allowed a maximum of 45 days to resolve your complaint.

Step Two

If you do not receive a reply from bank within 45 days, or find the reply unsatisfactory, you may file a complaint with the Banking Mohtasib on the prescribed complaint form.

Step Three

The Complaint Form duly completed, signed and attested by an Oath Commissioner should be attached with your letter of complaint addressed to the Banking Mohtasib and sent to:

Banking Mohtasib Pakistan
Shaheen Complex,
5thFloor, M R Kiyani Road
Karachi

Please make sure that all related correspondence with the Bank and copies of all relevant documents are also sent to the Banking Mohtasib. **Please do not send original documents, as these will be examined at the time of hearing.**

16 Important Information

- The service provided by Banking Mohtasib is free of cost. There is no need to engage a lawyer.
- Complaints can be filed with Banking Mohtasib for resolution of grievance against commercial banks operating in Pakistan.
- The Banking Mohtasib handles complaints relating to violation of banking law and regulations, excessive delays and inefficiency, poor service, discriminatory actions etc.
- The Banking Mohtasib is barred under the law to accept complaints relating to bank policy e.g. published schedule of charges, loan policies etc. Further, the Banking Mohtasib cannot order a bank to sanction a loan, waive or reduce mark up on loans.
- The Banking Mohtasib is barred under the law to accept complaints from bank employees pertaining to their terms of service.
- The Banking Mohtasib will entertain only those complaints which are filed by aggrieved person themselves or their lawful attorney.
- Please note that in case you decide at any stage to prefer seeking redressal of your grievance from a court of law during the pendency of your complaint in the office of Banking Mohtasib the information regarding the same should be provided to this office immediately as this will oust the jurisdiction of Banking Mohtasib.

- Please note that document provided to the Secretariat cannot be supplied to parties to the dispute in terms of Section 82 F (a) of BCO 1962.

For further information please visit Banking Mohtasib's website:

www.bankingmohtasib.gov.pk or email at: info@bankingmohtasib.gov.pk

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