

FROM INSURANCE OMBUDSMAN TO FINANCIAL OMBUDSMAN

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Abstract:

After twenty years of the functioning of the Insurance Ombudsman institution, their duties were assigned to the Financial Ombudsman office which was created by the Act of August 5, 2015. The study includes the description of the most recent legislative changes concerning the workings of the Financial Ombudsman and current regulations regarding the handling of claims by the entities of the financial market. Special attention has been paid to the range of the Ombudsman's responsibilities as well as new problem solving opportunities the insured are entitled to.

The publications to date concerning the institution of the Insurance Ombudsman presented a wide range of subjects: beginning with the protection of consumer rights (Wróblewski, 2005), through issues of solving matters in dispute (Pietraszewski, 2011), protection of the pension scheme participants (Owczarek, 2007), to more detailed problems, for instance, topics associated with traffic accidents (Patalon, 2014).

However, due to the substantial, current, legislative changes, the publications to date concerning the Ombudsman became, to a considerable extent, out of date. Simultaneously, the majority of the newest publications concerning the Financial Ombudsman are of journalistic character. Many of the published studies concern projects of changes, but surprisingly, not all of them came into effect. Moreover, few studies concerning the current legal status exist, but quite literally, only individual points or articles of the new act are mentioned in their contents.

Taking the current legal status into consideration, it is possible to observe a certain need of scientific order to be introduced into the current state of knowledge, as well as its updating in many areas, also in the interdisciplinary sense (among others, economic-legal). What appears to be noteworthy is the need of analysing the new range of competence, as well as emphasizing the wider abilities that entities functioning on the financial market have received. Current articles and chapters in monographs regarding the Insurance Ombudsman are possible to be treated as a point of departure for extensive, up-to-date research, also from the area of banking and institutions of the widely understood financial market.

Amongst the most important differences between the Institution of the Insurance Ombudsman and the Financial Ombudsman it is worth mentioning the issue of the extending of the catalogue of entities whose interests the Ombudsman represents. Although the Insurance Ombudsman represented the interests of the persons mentioned in the Act in a literal way (among others the insuring, the insured, beneficiaries, etc.) the Financial Spokesman represents the interests of the widely understood group of customers being the entities of the financial market. On the other hand, however, a certain narrowing of the group of the entitled to use the assistance of the new institution has been applied to only natural persons (Budzianowski, 2015).

Amongst the main problems indicated in the literature concerning the Insurance Ombudsman was the lack of the possibility of imposing financial penalties by the institution. Currently, the Financial Ombudsman can already impose them up to the amount of 100 000 PLN on the entities of the financial market for the breach of the Act (Makowiecki, 2015).

Another significant competence of the Ombudsman is its current ability to conduct extrajudicial proceedings in the case of solving disputes between customers of the entities of the financial market and these entities, at the compulsory participation of the entity of the financial market (Act, 2015). Changes to the rules have also been made regarding information duties: the entity of the financial market has 14 days for submitting, at the request of the Financial Ombudsman, the template for the agreement and other documents and forms used for the drawing and realization of these agreements. What is more, the new act imposes on the entities of the financial market duties in information regarding customer service quality. It is a change which, for many years, the Insurance Ombudsman has struggled for (Budzianowski, 2015).

The discussed changes which arose at the subject institution determine her current organizational structure which results directly from the scope of the allotted tasks. Currently, the Financial Ombudsman is functioning on the basis of the structure of four departments: Department of the Insurance-pension

Market Customer, Department of the Banking-Capital Market Customer, Department of Extrajudicial Dispute Solving, and the Administrative-Financial Department (www.rf.gov.pl)

To sum up, last year's appointing of the institution of the Financial Ombudsman in place of the Insurance Ombudsman aimed at increasing the security level of persons using financial services thanks to applying new solutions, including the prior postulates of the Insurance Ombudsman. As the most substantial changes it is possible to recognize the extension of the catalogue of entities whose interests are the Ombudsman represents, imposing financial penalties up to 100 000 PLN, conducting extrajudicial proceedings and imposing information duties on the entities of the financial market (regarding templates for agreements, documents, and forms) as well as reporting (Report concerning the handling of claims and the number of customers instituting judicial proceedings) towards the Ombudsman. Further research and analyses are recommended in this respect, and in particular, confronting the potential, legal activity of the Ombudsman's operations with the actual scale of its undertaken activities.

Keywords: insurance ombudsman, financial ombudsman, the insured, the rights of the insured

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