



**Banking Mohtasib Pakistan بینکنگ محاسب پاکستان**

A N N U A L R E P O R T 2 0 0 5

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# A note from the Banking Mohtasib Pakistan

The Banking Mohtasib function was introduced in Pakistan on May 2, 2005.

It gives me great pleasure in bringing to you an abridged copy of the first Annual Report covering the period May 2, 2005 to December 31, 2005 submitted to the Governor, State Bank of Pakistan on March 27, 2006, in terms of Section 82G Chapter IV A of the Banking Companies Ordinance 1962 (BCO).

This copy is abridged to the extent that it respects the confidentiality associated with bank and customer relationships.

Over a short period of time, the banking industry in Pakistan has grown substantially primarily through sharper focus on attractive consumer oriented products generating strong consumer demand.

Also, privatization and deregulation have fostered an environment where banks are competing aggressively for sustainable profitable business making the market highly competitive and innovative.

However, gauged from the type of complaints received, it would appear that product knowledge and skill sets amongst front line bank staff have lagged product development leading to customer dissatisfaction.

To manage growth and to satisfy the needs of an expanding consumer base, a strong service culture attains particular significance and banks would be well advised to introduce customer retention and quality assurance initiatives so that customer grievances are addressed expeditiously and instead of knee jerk reaction, processes are streamlined to plug gaps where necessary.

Be that as it may, it is pleasing to note that some banks have indeed set up quality assurance units where all complaints are recorded, analyzed and their resolution carefully monitored.

The State Bank of Pakistan continues to closely monitor banks' service standards and suitable guidelines and instructions have been issued from time to time in order to remove systemic bottlenecks.



State Bank of Pakistan's recent Basic Banking Account initiative is an outstanding example of responding to consumer predicament.

Establishment of the Banking Mohtasib function augers well for bank customers. In the 24 countries globally where similar schemes exist, the schemes have had a salutary impact on the industry, an industry where customer service should rank supreme, but more often than not, the reality is otherwise.

During our investigations some contentious areas have surfaced which gave rise to multiple complaints. The Report includes some recommendations, interspersed with case studies, for the State Bank of Pakistan to consider and to issue necessary directives to banks so that processes and procedures can be streamlined, thus minimizing areas of dissent between banks and their customers in the future.

**Azhar Hamid**  
June 2006

## Core Values

We function as a closely-knit team and take collective responsibility for individual decision-making. We have full ownership of our Core Values and firmly believe that by living these values, both in our professional and personal lives, we can make a difference.

### Responsive

We receive a large number of disputes daily. We will use a practical and rational approach to find fair and amicable outcomes in a manner that is informal and speedy.

### Compassionate

Disputes, howsoever petty, cause unnecessary pain and stress. We will analyze each dispute with an open mind and if necessary listen to parties concerned, patiently and sympathetically, so as to find a practical and equitable solution.

### Flexible

We believe that most disputes can be resolved in a friendly and amicable manner. We will not allow rigidity to dictate the dispute resolution process. Instead, we will endeavor to create an environment where all concerned are encouraged to be reasonable and conciliatory.

### Trustworthy

We will treat all those we meet with respect, courtesy and compassion because only by doing so will we gain their confidence and trust.

### Transparent

We are neither consumer champions nor advocates. Neutrality and openness will underpin our deliberations. Our service is free of charge. We will respect confidentiality in all disputes and will institute a process of conciliation that is acceptable to both parties. Decisions whenever taken by us will be consistent, clear and balanced so that any rational mind can appreciate the reasoning behind our findings.



## Brief introduction to ombudsman schemes

The word "ombudsman" is of Swedish origin and means "representative or agent" of the people. An ombudsman was first established in Sweden, in 1809. The next country to follow 110 years later, was also a Scandinavian country, Denmark

It was not until 1962 that the concept shifted outside of Scandinavia when New Zealand launched a Federal Ombudsman Scheme.

Today, over 100 countries have ombudsman schemes in place, established to resolve public grievances against departments of state.

It was only about 20 years back that the concept was adopted by non-government related services.

One of the first industries to embrace the concept was the banking industry when the UK Banks Association established a banking ombudsman in 1986. Today, banking ombudsman or similar schemes within the financial sector exist in about 25 countries sponsored either by bank associations or governments through legislation.

## Scope of financial sector ombudsman schemes

The Ombudsman's role in the financial services industry is to resolve disputes through a process which is largely conciliatory, and where mediation is unsuccessful, to pass a reasoned order for the settlement of a dispute.

Ombudsman's scope and jurisdiction varies across countries. The majority of schemes cater to individuals and small businesses.

## Banking Mohtasib (Ombudsman) in Pakistan

The enabling law for the establishment of the Banking Mohtasib Pakistan (Banking Mohtasib) was enacted on May 5, 1997 through Chapter IV A in the BCO. A Banking Mohtasib, however, was not appointed at the time.

Privatization momentum coupled with the process of liberalization has led to substantial growth in the banking industry primarily consumer related activities as follows:

	As at December 2001	As at June 2005
<b>Advances below Rs. 500,000</b>	<b>Rs. 154 billion</b>	<b>Rs. 313 billion</b>
<b>Number of borrowers</b>	<b>2,218,524</b>	<b>4,012,299</b>

The table reveals that during a three and a half year period up to June 2005, small loans more than doubled to Rs. 313 billion and the number of small borrowers grew by more than 80%.

Banking sector complaints were being handled by SBP, Wafaqi Mohtasib and provincial mohtasibs with the occasional issue taken to a court of law. The Government realized that the increasing volume of complaints necessitated the establishment of an independent, free, impartial and expeditious complaints resolution mechanism and appointed a Banking Mohtasib in August 2004 who was charged with the

responsibility to establish the function. Banking Mohtasib Pakistan opened to the public on May 2, 2005.

Total start up costs amounted to Rs. 23,500,000/- broken down as follows:

Rs. 18,195,739/- automation and IT infrastructure  
Rs. 1,051,000/- furniture  
Rs. 1,752,903/- equipment including one car for Mohtasib  
Rs. 2,500,000/- civil works and refurbishment

These costs were largely funded through a USD 350,000/- (Rs. 21,000,000/-) World Bank allocation from the unutilized SBP TABS IT project. The balance is recoverable from banks over a three year period.

Total staff strength currently is 30.

## Scope and Jurisdiction

Banking Mohtasib has been empowered to entertain complaints against scheduled banks by their customers and inter scheduled bank complaints.

Banking Mohtasib will facilitate amicable resolution of complaints after giving hearings, where necessary, to the complainant and the concerned bank. In the event that complaints cannot be resolved by consent, Banking Mohtasib may pass a formal order and, if necessary, award reasonable compensation to the complainant.

In the first phase of its operation and in line with schemes world wide, Banking Mohtasib will entertain complaints from all individuals and businesses with annual turnover below Rs. 100 million.

Irrespective of the transaction value, the maximum compensation Banking Mohtasib may award will not exceed Rs. 1 million.

Banking Mohtasib will accept current complaints or such complaints which have been rejected by banks in writing on or after July 1, 2004.

A summary of the types of complaints the Banking Mohtasib can entertain is as follows:

- failure to act in accordance with banking laws and regulations
- delays or fraud in relation to the payment or collection of cheques, drafts or other banking instruments or transfer of funds.
- complaints from small businesses 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.

In addition to the forgoing, Banking Mohtasib can entertain complaints against public sector banks, pertaining to:

- corruption or malafide practices by bank officers.
- gross dereliction of duties in dealing with customers and,
- inordinate delays in taking decisions.



## Appeal process

The law allows complainants and banks who do not agree with Banking Mohtasib's order, to proffer appeals with SBP within 30 days. An order not appealed against or any order upheld in appeal by SBP, shall become final and operative.

However, complainants always retain the right to take a dispute to court if they so wish.

Matters outside Banking Mohtasib Pakistan jurisdiction

Banking Mohtasib does not have the power to direct that loans and advances be given to a complainant.

Banking Mohtasib has no jurisdiction to consider a complaint against a bank's loan mark-up policies, risk policies, or pricing of products and services (schedule of charges) and any other policy matter. The Banking Mohtasib also can not entertain complaint relating to employment issues of bank employees and ex-employees.

Any matter which is sub-judice or has been decided upon by a court of law or by the State Bank of Pakistan, is outside the purview of Banking Mohtasib.

## Administrative Expenses

Administrative expenses during the full year were Rs. 29,413,910/-. Major items of expenditure were:

- Rs. 15,618,805/- - salary and allowances
- Rs. 4,128,244/- - rent
- Rs. 2,521,036/- - printing, advertising and publicity
- Rs. 690,392/- - security and janitorial services
- Rs. 1,716,650/- - utilities - electricity, water, telephone etc.

These expenses are charged proportionately to banks.

## Complaints related activities during the year

There are 39 scheduled banks in Pakistan with over 7300 branches throughout the Country.

Banking Mohtasib entertains two types of complaints a) informal i.e. walk in, email or telephone complaints and b) formal written complaints.

In the case of informal complaint, Banking Mohtasib provides procedural guidance to complainants and occasionally where warranted, requests banks informally to resolve the issue.

During the eight months of operation, more than 250 such informal complaints were received. Following is an example of resolution of an informal complaint:

In 1995 an individual in Quetta lost Travelers Cheques worth USD 10,000/-. Bank declined refund. Customer approached Banking Mohtasib. We informally contacted a senior bank executive for assistance. The complainant received USD 10,000/- within a month of making contact with Banking Mohtasib.



594 formal complaints were received during the period, averaging 75 per month - well below initial estimates. It was subsequently discovered that through an oversight, SBP was handling complaints received directly by it rather than forwarding them to Banking Mohtasib. This has since been resolved.

The following chart tabulates bank wise complaints received in descending order:

	Bank	Total	Rejected	Declined	Granted	Amount claimed	Amount granted	Compensation granted	Pending 31-12-05
1	NBP	100	41	22	15	10,596,197	5,159,931	534,020	22
2	Habib Bank	78	14	16	16	4,285,931	4,193,747	1,500	32
3	UBL	72	14	20	12	4,715,141	4,715,141	285,215	26
4	ZTBL	72	24	16	9	253,433	301,108	121,053	23
5	MCB	54	13	11	10	1,152,748	40,348	10,000	20
6	Allied	42	9	9	14	863,851	37,066	11,771	10
7	Citibank	38	1	9	3	9,738	9,738		25
8	Standard Chartered	25	2	6	3	65,359	0	11,114	14
9	Union Bank	25	3	5	3	31,689	26,010	7,154	14
10	Bank Alfalah	13	2	3	2	0	3,451	0	6
11	Bank of Punjab	10	1	3	1	0	0	0	5
12	ABN	8	2	1	3	12,083	12,083		2
13	Askari	5	1	1	0	0	0	0	3
14	SME	4	3	1	0	0	0	0	0
15	Bank Al-Habib	4	1	3	0	0	0	0	0
16	Soneri	4	2	0	0	0	0	0	2
17	Crescent Comm	3	1	1	0	0	0	0	1
18	IDBP	3	1	1	1	0	0	0	0
19	PPCB	3	1	0	1	20,000	0	0	1
20	Faysal	2	0	0	0	0	0	0	2
21	KASB Bank	2	1	0	0	0	0	0	1
22	Mybank	2	1	0	0	0	0	0	1
23	PICIC Comm	2	2	0	0	0	0	0	0
24	American Express	1	0	0	0	0	0	0	1
25	Habib Bank AG Zurich	1	0	0	0	0	0	0	1
26	Prime Comm	1	1	0	0	0	0	0	0
27	Bank of Khyber	1	0	0	1	115,456	100,456		0
28	Bank of Tokyo Mitsubishi	1	0		1	112,079	112,204	0	0
	Others	18	13	2	0	0	0	0	3
	<b>Total</b>	<b>594</b>	<b>154</b>	<b>130</b>	<b>95</b>	<b>22,233,705</b>	<b>14,711,283</b>	<b>981,827</b>	<b>215</b>

### Case Study

In October 2004, Main Branch of a bank in Lahore deducted Zakat Rs. 72,773/- from an account although the customer claimed to have handed in declaration Form CZ 50 for non-deduction. The customer protested but the Branch simply denied ever having received the declaration form. After several attempts to convince the Branch otherwise, the matter was reported to Banking Mohtasib on May 14, 2005.

Banking Mohtasib investigators visited the Branch and located the missing document from archives in the presence of Branch staff.

The refund was made on June 14, 2005. Banking Mohtasib also sanctioned Rs. 3,750/- as compensation to the complainant.



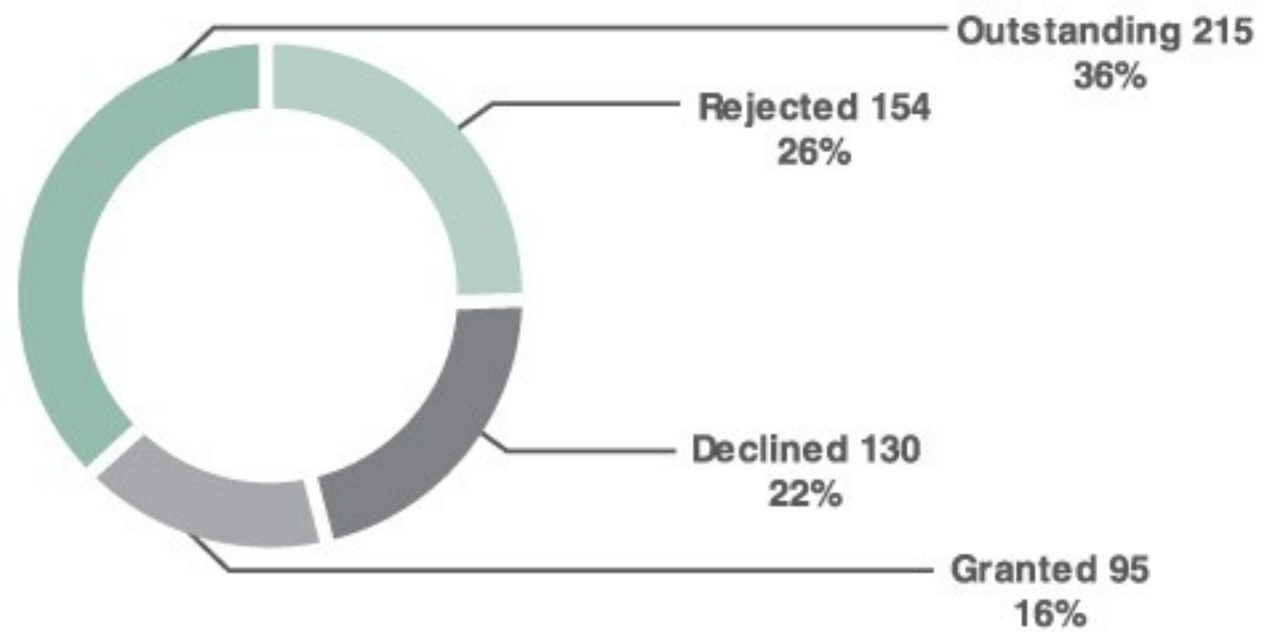
The following table depicts complaints received on the basis of number of branches of each bank:

Bank	Total	Branches	Complaint per Branch
Citibank	38	14	2.71
ABN	8	8	1
Bank of Tokyo Mitsubishi	1	1	1
SME	4	7	0.57
Standard Chartered	25	46	0.54
Union Bank	25	53	0.47
American Express	1	4	0.25
ZTBL	72	342	0.21
Crescent Comm	3	16	0.19
IDBP	3	19	0.16
Bank Alfalah	13	97	0.13
KASB Bank	2	25	0.08
NBP	100	1316	0.08
Soneri	4	53	0.08
UBL	72	1056	0.07
Askari	5	75	0.07
Allied	42	749	0.06
MCB	54	969	0.06
Habib Bank	78	1457	0.05
Bank Al Habib	4	75	0.05
Habib Bank AG Zurich	1	20	0.05
Bank of Punjab	10	254	0.04
Mybank	2	51	0.04
Faysal	2	53	0.04
Bank of Khyber	1	30	0.03
PICIC Comm	2	100	0.02
Prime Comm	1	50	0.02
PPCB	3	158	0.02
Others	18		
<b>Total</b>	<b>594</b>		

No formal complaints were received against the following 11 banks:

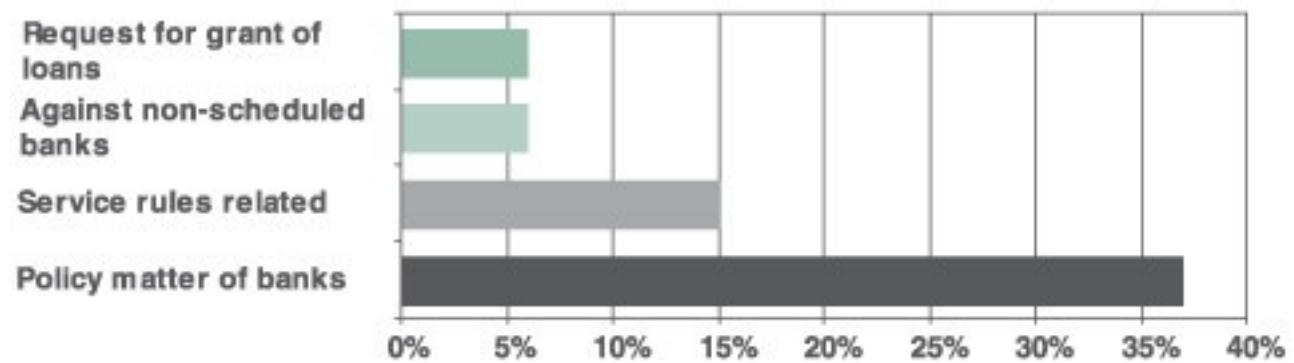
	Bank		Bank
1	Al-Baraka Islamic Bank	7	NIB Bank
2	Dawood Bank (now Atlas Bank)	8	Oman International Bank
3	Deutsche Bank	9	Rupali Bank
4	First Women Bank	10	Saudi Pak Commercial Bank
5	Meezan Bank	11	Hongkong Shanghai Bank
6	Metropolitan Bank		

The diagram below shows the disposal status of the 594 complaints during the period:



It will be noted that a shade above quarter of the complaints were rejected outright which is consistent with initial estimates. Rejected complaints largely related to policy matters such as schedule of charges, loan markup rates and staff employment disputes.

The following chart illustrates the rejection pattern by major categories:



During the period, 95 or 16% of the formal complaints received were "granted" (decided in favour of the complainants). In handling complaints, our primary aim is to resolve grievances amicably through a process of reconciliation. After analysis, which may include scrutiny of branch records, we send informal recommendations to banks on how best to settle a dispute. Should banks challenge our recommendations, they are provided an opportunity of a formal hearing in terms of Section 82D (3) of the BCO before an order is passed.

The following table, in descending percentage "granted" order, shows the banks with a minimum of 5 complaints, against which complaints were "granted":

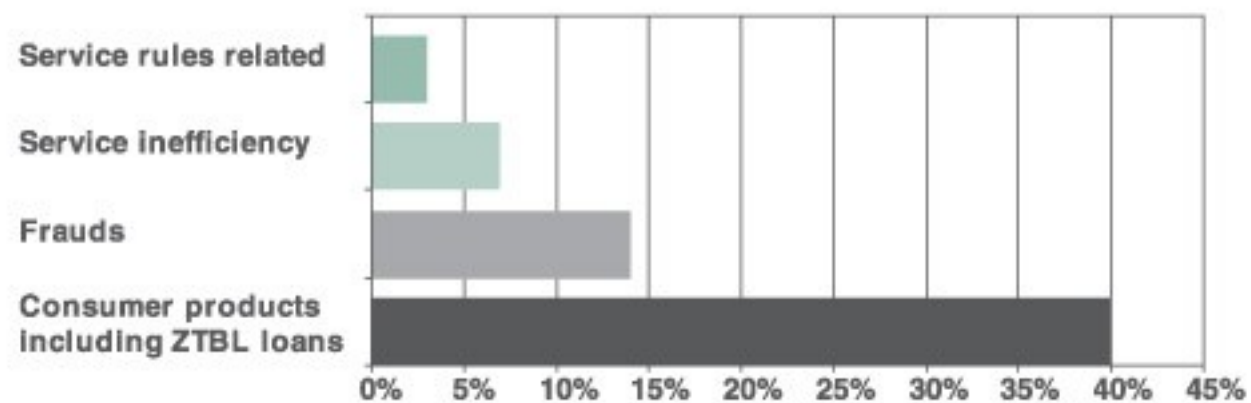


	Bank	Total complaints received	Granted	% Granted
1	ABN Amro Bank	8	3	38%
2	Allied Bank Ltd.	42	14	33%
3	Habib Bank Ltd.	78	16	21%
4	MCB Bank	54	10	19%
5	United Bank Ltd.	72	12	17%
6	Zaral Taraqlati Bank	54	9	17%
7	Bank Alfalah Ltd.	13	2	15%
8	National Bank of Pakistan	100	15	15%
9	Standard Chartered Bank	25	3	12%
10	Union Bank	25	3	12%
11	The Bank of Punjab	10	1	10%
12	Citibank, N.A.	38	3	8%
13	Askari Commercial Bank Ltd.	5	0	

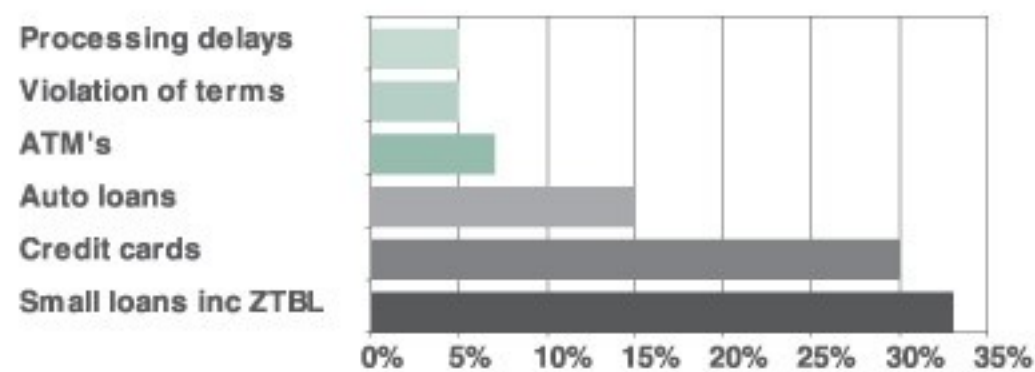
It is satisfying to report that of the 95 "granted" cases, only one formal order was issued. All others were resolved on the basis of informal recommendations made by BMP.

## Types of complaints received

Complaints received during the period fall in the following broad categories;



It can be seen that 40% of the complaints related to consumer products and these can be further broken down by major categories as per the next chart:



Here again the split between consumer products grievance categories is consistent with what are generally believed to be problem areas.

## Behavior and response time of banks

In most cases, a grievance reaches Banking Mohtasib after protracted correspondence between complainants and banks, however, it is encouraging to note that in general, the attitude of banks in responding to investigations and enquiries by Banking Mohtasib has been positive with some banks demonstrating a noticeable willingness to resolve issues and find solutions to disputes.

In one case, a farmer was being repeatedly harassed for recovery of a loan he claimed to have repaid some 9 years earlier. Investigations by Banking Mohtasib revealed that due to faulty book keeping, the loan repayment amount was credited to the bank's "Sundry Creditors" account.

Banking Mohtasib ensured that the farmer was suitably compensated for a 9 year struggle. However, investigations brought to light 94 similar cases and though Banking Mohtasib did not receive any associated complaints, the bank was asked to reconcile all relevant loans. It is heartening to note that within a period of two months, all 94 cases, some dating back to 1997 were reconciled thus bringing to an end the misery of almost 100 farmers.

## Observations on service culture

Upon scrutiny of correspondence between banks and complainants exchanged prior to the lodgment of complaints with Banking Mohtasib, and based on a study of events which initially caused the dispute, it was found that many banks are lacking in a sales and service culture and service standards leave much room for improvement.

It was noticed that many banks adopt an indifferent approach to the complaints resolution process. The stand usually taken is defensive in nature with little effort made to investigate the core issue.

### Case Study

**During 2004 an exporter discovered that an inward remittance of USD 4483/71 sent from Tokyo on April 22, 1992 was not credited to his account although a credit advice and a Proceeds Realization Certificate (both dated April 22, 1992) were issued by a foreign bank in Karachi.**

**When approached, the bank informed him that old records had been destroyed and in any event, the matter had become time-barred (the Bank had obtained a legal opinion to this effect).**

**A complaint was lodged with us on May 9, 2005.**

**The bank was contacted by Banking Mohtasib after obtaining originals of the account statements, credit advice and the Proceeds Realization Certificate from the exporter. The bank was also shown case law to the effect that claims on an operative account can not be time barred thus negating legal advice it had earlier obtained.**

**Bank accepted our recommendations and credited the exporter's account after a lapse of 15 years! However, no compensation was sanctioned by Banking Mohtasib because the exporter had failed in his duty to reconcile bank statements regularly.**



SBP has repeatedly asked banks to establish complaints handling cells as well as recommending response time lines. Whilst banks have indeed established such cells, these would appear amongst some of the larger banks, to be unstructured and with insufficient empowerment. Given the growing size of banks' customer base and product range, banks would be well advised to focus sharply on quality assurance through innovative customer care initiatives and training.

SBP continues to monitor service efficiency at banks and, where necessary, facilitates introduction of new products and services geared towards customer convenience. Many grievances received at Banking Mohtasib related to ledger fees and minimum balance requirements, primarily from low income account holders. Unfortunately these had to be rejected outright since such stipulations fell within banks' schedule of charges. To address the issue, regulatory intervention became necessary and the recent SBP Basic Banking Account initiative will go a long way towards alleviating the suffering of low income account holders.

SBP's constant vigil together with the establishment of Banking Mohtasib should provide further momentum to the banking industry in its service quality initiatives which augers well for the consumer base within the Country.

## **Analysis of systemic issues and recommendations made to the State Bank of Pakistan**

The sample size may be insufficient to lend to a meaningful assessment of systemic issues, however an indication of potentially thorny areas can be obtained through analysis of the types of complaints received, both formal and informal.

The ensuing section highlights some of the systemic weaknesses and poor banking practices which have given rise to disputes between banks and their customers and which nipped early through regulatory intervention, could remove areas of dissent in the future.

### **1. Credit Card fraud**

Card issuers do not accept liability for card misuse unless a loss report has been lodged prior to misuse date. This is understandable because of instances of unscrupulous customers having notified card loss soon after having made transactions and then lodging claim for fraudulent use of card.

It is also part of established practice that authorized merchants assume little or no responsibility in respect of fraudulent card use at their stores. In one extreme case reported to us, a merchant allowed a credit card sale even though the signatures on the sale slip were in a different language. This complaint is currently under investigation by us.

However, the popularity of plastic money globally is rapidly on the rise as is the element of fraudulent activity. The Pakistani consumer market is no exception.

Lack of consumer awareness and negligence also account for credit card related mishaps. Credit cards are proxy to cash and card issuers invariably and repeatedly request credit card users to afford maximum protection to cards in their possession. One can draw sharp parallels between credit card fraud and computer viruses. Like hackers, fraudsters continue to find novel and unique means, including the use of



technology, to defraud bank consumers. All card issuers now have internal "fraud investigation" units who constantly pursue card fraud, but with token success. In order to protect card users, card issuers are relentless in their search for devices to counter fraudulent activity. In the UK, credit cards are now being issued with a protective PIN which renders card misuse difficult, at least for the moment. In France PIN linkage was introduced in 1995 and the same has since been done in a few other countries.

In the UK, where PIN and CHIP technology was introduced very early in 2005, credit and debit card fraud fell significantly for the first time in 10 years. Total card fraud losses fell by 13 percent, from GBP 504.8 million in 2004 to GBP 439.4 million in 2005, according to figures from APACS, the UK payments association. UK figures are staggering. Pakistan has a nascent credit card business and card issuers would be well advised to take early corrective action to safe guard their customers.

*We have recommended to SBP that card issuers in Pakistan be asked to give serious consideration to the issuance of PIN based credit cards in order to provide additional security and protection to a rapidly growing credit card base.*

## 2. Credit Card - statements

A credit card holder was billed Rs. 124,577/11 by a local bank with due date of January 25, 2006. Card holder duly paid Rs. 124,577/- on January 22, 2006 only to discover, in the next statement, a charge of Rs. 3,357/- being late payment fee and mark up on the entire billed amount for failure to pay the 11 paisas. Protests lodged were callously rejected. However, after Banking Mohtasib intervention the charge was refunded.

Technically and legally the banks are within their rights to make the charge. The fine print says so.

The example quoted is an extreme case but similar occurrences are not uncommon. In fairness to the banks, we believe refunds of such charges are usually made after protest but the refund process is cumbersome for the bank and a source of serious inconvenience for the card holder.

### Case Study

**On June 4, 1992, a person then employed on deputation in Qatar, obtained a draft for USD 306/- drawn on the bank's Peshawar branch. The draft was sent to the of Director Education, Peshawar representing contribution towards his pension fund, but the draft got misplaced.**

**After hectic enquiries both by the beneficiary and the Education Department Peshawar, the bank informed its Doha branch on December 26, 1997 that the draft was still outstanding in its books and requested issuance of a duplicate draft. The branch in Doha responded on March 24, 2001 confirming that as per its New York agency account records, the said draft had in fact been paid on June 12, 1992.**

**The Peshawar branch was repeatedly asked for details of payment but failed to respond positively. An oblique reference by the branch to old records having been destroyed was seen.**

**A formal complaint was lodged with Banking Mohtasib on June 18, 2005 and after Banking Mohtasib intervention, a duplicate draft for USD 306/- was delivered to the complainant in July 2005. The episode came to a satisfactory end after 13 years.**



In order to address such issues, one bank has very recently modified its card system to facilitate round amount billing. It is noteworthy that some utility bills are also now rounded up to the nearest hundred for consumer convenience.

*We have recommended to SBP that all card issuers be asked to introduce round amount credit card billing in order to avoid needless acrimony in the future.*

### **3. Contract sales persons - misleading and false promises**

A dangerous trend observed by us relates to unethical and often misleading sales calls made by bank sales persons.

False and inaccurate product features are communicated to potential customers by bank staff that is predominantly contracted and lacking proper marketing skills and training. One frequently used tactic is the lure of early car delivery if auto loan is availed. Banks do not have any control over vehicle delivery schedules.

Consumers, misled by false promises, succumb to attractive offers only to discover later that commitments and assurances held out at sign up stage were not being honored. Subsequent protests are invariably ignored with banks refusing to accept any responsibility.

*We have recommended to SBP that in order to protect potential customers, all banks involved in door to door sales calls should be required to establish a quality assurance unit which will make sales verification telephone calls to all customers who have signed up for a bank product through external sales persons. The telephone calls should be made immediately after signed documents are submitted for processing to the bank by the sales persons. The caller should ascertain customer understanding of the product and obtain details of any commitments made by the sales persons. A record should be made of the telephone contact in the relative file.*

World Call, Pakistan's leading multi media and telecommunication company, has an aggressive door to door sales activity and has effectively introduced such a sales verification process.

### **4. Letters of Lien - obligatory notice prior to encashment of security**

We have come across some cases where goods or other security pledged with banks under a letter of lien have been sold by banks without prior reasonable notice of the intended sale. We found that this sometimes happens because letters of lien contain a clause that the borrower has expressly authorized the bank to sell the pledged items without notice leading bankers to believe, incorrectly, that such a clause obviates the legal obligation of a notice prior to sale of pledged goods.

It would appear that most bank officers are not mindful of the provisions of Section 176 of the Contract Act whereby prior service of notice is mandatory and the fact that superior courts have laid down that the borrower cannot, by contract, waive his right to receive it.



*We have recommended to SBP that banks be asked to amend letters of lien and other such legal documents of pledge, by deleting all such clauses which dispense with the requirement of prior notice of sale of pledged, or under lien, securities. Such clauses are more than likely to mislead officers of banks into unwittingly contravening the law to the banks' ultimate detriment.*

## 5. ATM issues

Over the years the ATM network has evolved from stand alone bank owned ATM's to two switches, MNET (MCB owned and operated) and 1 Link (managed by ABN AMRO). In 2004, at the request of the State Bank of Pakistan, both switches were interconnected enabling customers to access ATM services from any ATM across Pakistan.

ATM usage is rapidly increasing and currently there are around 30,000 ATM transactions daily.

An informal recent research reveals that almost 40% of over the counter transactions of Rs. 10,000/- and under, are now being routed through ATM's thereby improving bank productivity. ATM usage is expected to grow with aggressive bank marketing and higher account holder awareness.

However, systems deficiencies and inadequate reconciliation procedures between the two switches resulted in a huge back log of disputes and a large number of complainants remained aggrieved by non-resolution or delayed resolution of ATM related disputes.

Since 2004 when the two switches were interconnected, 3,405 disputed transactions were reported and whilst most were resolved, the ensuing delay caused grave hardship to the customers. The amount involved was in excess of Rs. 20 million.

Currently there are 495 disputed transactions in the market valuing Rs. 2,700,000/- going back an average 50 days.

It is pleasing to note that after SBP's intervention in 2005, the ATM reconciliation process between the two switches has vastly improved and earnest efforts are being made to further streamline the process.

*We have recommended to SBP that the two switch operators develop a robust Service Level Agreement to encourage accountability and timely resolution of ATM related disputes.*

### Case Study

**On November 28, 1989 under a Court Order, an amount of Rs. 50,000/- was placed on deposit with a bank payable with profit to four orphaned minor sisters when the youngest of the sisters attained maturity age on June 6, 1995.**

**In June 1995, the said bank was approached for payment but asked for another Court Order authorizing release. A Court Order was finally obtained in October 2005. The bank paid the principal plus a profit of Rs. 6,136/-. The profit was considered insufficient for a 16 year period but bank ignored protests made. A grievance was lodged with Banking Mohtasib on November 8, 2005.**

**After Banking Mohtasib intervention, profit was recalculated and a further amount of Rs. 22,194/- was paid to the sisters in December 2005.**



## 6. Parallel banking frauds

The banking services industry unfortunately, is prone to frauds and financial scams world over. Pakistan's banking sector is no exception and banks, over time, have been subjected to deception and fraud, usually with internal connivance.

Individual cases of fraud have been generally dealt with by banks fairly professionally. However there have been several unfortunate incidents of gangs of staff members who indulged in multiple deception schemes against bank customers and surprisingly avoided detection, in one case for over six years (1998 - 2004). Within banking circles such frauds are known as "parallel banking" frauds.

The modus-operandi encompasses maintenance of parallel registers by errant staff. Cash deposited by customers is pocketed and a record made in the register. Whenever cheques are presented on the affected account, the account is credited usually to meet the amount of the cheque. The perpetrators continue operating the scheme until the pyramiding effect becomes unmanageable. At that stage the ring leader usually disappears, leaving behind a host of claimants with little audit trail of transactions except unaccounted for cash deposit receipts.

Banks have suffered such parallel banking frauds in Pakistan since long. However, we have received complaints relating to such fraudulent schemes at two major local banks in Pakistan.

Both the banks have lodged complaints against suspected staff members with NAB (National Accountability Bureau) and although a large number of the disputes have been settled, some remain unresolved pending investigations by NAB (National Accountability Bureau), thus causing continued hardships to the customers.

Be that as it may, it is strongly suspected that the accused staff may have issued some fraudulent cash deposit receipts much later so that bogus claims can be lodged with the banks. Whether such bogus receipts were indeed issued by the accused staff is not easily identifiable but some events do create serious doubts. For example, a large claim for missing credits was lodged 14 months after the scam was detected where as the majority of claims were lodged within days of the scam being unearthed. One would have thought that customers would rush to file claims once a scam is detected and details appear in local newspapers.

Such alleged misdeeds by accused staff have made reconciliation and compensation extremely onerous for the banks and investigators.

Upon scrutiny by Banking Mohtasib it transpired that infrequent or non-dispatch of account statements and lack of staff rotation were prime reasons the frauds could not be detected earlier either by the bank or affected customers.

*We have recommended to SBP to make it incumbent upon banks to:*

- a) send quarterly account statements at nominal cost, at least quarterly, or more frequently as required by the customers to facilitate regular reconciliation and*
- b) implement and enforce staff rotation policies at least for senior branch staff.*

Implementation and regular audit of these steps should considerably reduce the element of internal fraudulent activity in the future.